

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JUNE 17, 2010

AMENDED IN ASSEMBLY APRIL 26, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2561**

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**Introduced by Assembly Members Villines and Fuentes**

February 19, 2010

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An act to amend Section 1250.310 of the Code of Civil Procedure, to amend Section 14074 of the Corporations Code, to repeal Sections 17925 and 41304 of, and to repeal Part 10.7 (commencing with Section 17910) of Division 1 of Title 1 of, the Education Code, to amend Sections 32940 and 32942 of the Financial Code, to amend Sections 9100 and 9101 of the Fish and Game Code, to amend Sections 11041, 11550, 11553, 11553.5, 12802.5, 12805, 14450, 14684, 14684.1, 15814.22, 15814.23, 15814.30, 15814.34, 16366.2, 16366.35, 16366.6, 16366.7, 66645, and 66646 of, to amend and renumber Section 15814.25 of, to repeal Sections 16366.3, 16366.4, 16366.5, 16366.8, 16366.9, and 16367.8 of, the Government Code, to amend Sections 44270.3, 44271, 44272, 44272.5, 44273, and 44274 of the Health and Safety Code, to amend Sections 3808, 3810, 3822, 3822.1, 3822.2, 4799.16, 6815.2, 14584, 25000.1, 25005.5, 25104, 25106, 25205, 25207, 25209, 25210, 25211, 25212, 25213, 25214, 25215 25216, 25216.3, 25216.5, 25217.1, 25218, 25218.5, 25220, 25221, 25222, 25223, 25224, 25225, 25226, 25301, 25302, 25303, 25304, 25305, 25305.5, 25306, 25310, 25320, 25321, 25322, 25323, 25324, 25331, 25332, 25333, 25334, 25335, 25336, 25337, 25338, 25339, 25340, 25341, 25354, 25356, 25357, 25358, 25362, 25364, 25366, 25400, 25401, 25401.2, 25401.5,

25401.6, 25401.7, 25401.9, 25402, 25402.1, 25402.2, 25402.3, 25402.4, 25402.5, 25402.5.4, 25402.6, 25402.7, 25402.8, 25402.9, 25403, 25403.5, 25403.8, 25404, 25405.5, 25405.6, 25410.5, 25410.6, 25412, 25413, 25414, 25415, 25416, 25417, 25417.5, 25419, 25420, 25422, 25426, 25433, 25433.5, 25434, 25434.5, 25441, 25442, 25442.5, 25442.7, 25443, 25443.5, 25445, 25449.1, 25449.2, 25449.3, 25449.4, 25450, 25450.1, 25450.3, 25450.4, 25450.5, 25460, 25461, 25462, 25463, 25470, 25471, 25472, 25473, 25474, 25494, 25495, 25496, 25500, 25500.5, 25501, 25501.7, 25502, 25502.3, 25504, 25504.5, 25505, 25506, 25506.5, 25507, 25508, 25509, 25509.5, 25510, 25511, 25512, 25513, 25513.3, 25514, 25514.3, 25514.5, 25516, 25516.1, 25516.5, 25516.6, 25517, 25518, 25519, 25520, 25520.5, 25521, 25522, 25523, 25524.1, 25524.2, 25524.5, 25525, 25526, 25527, 25528, 25529, 25530, 25531, 25532, 25534, 25534.1, 25534.2, 25537, 25538, 25539, 25540, 25540.1, 25540.2, 25540.3, 25540.4, 25540.5, 25540.6, 25541, 25541.5, 25542, 25543, 25601, 25602, 25603, 25605, 25605.5, 25608, 25609, 25609.5, 25610, 25616, 25617, 25618, 25620, 25620.1, 25620.2, 25620.3, 25620.4, 25620.5, 25620.6, 25620.7, 25620.8, 25620.11, 25630, 25650, 25678, 25679, 25696, 25696.5, 25697, 25700, 25701, 25702, 25703, 25704, 25705, 25720, 25721, 25722, 25722.5, 25722.6, 25722.7, 25723, 25740.5, 25741, 25742, 25743, 25744, 25744.5, 25747, 25748, 25751, 25770, 25771, 25772, 25773, 25782, 25783, 25784, 25802, 25803, 25806, 25900, 25901, 25902, 25910, 25911, 25912, 25942, 25943, 25960, 25961, 25962, 25963, 25964, 25965, 25967, 25968, 26004, 26011.5, 26011.6, and 30404 of, to amend the heading of Chapter 3 (commencing with Section 25200) of Division 15 of, to amend and repeal Section 25449 of, to add Sections 3806.5, 25104.1, 25104.2, 25205.5, 25207.5, and 25219 to, to add Chapter 3.5 (commencing with Section 25227) to Division 15 of, to add and repeal Section 25208 of, to repeal Sections 3805.5, 25217, 25217.5, and 25603.5 of, to repeal Article 3 (commencing with Section 25435) of Chapter 5.3 of Division 15 of, and to repeal and add Sections 25200, 25201, 25202, 25203, 25204, and 25206 of, the Public Resources Code, to amend Sections 348, 352, 384, 398.3, 398.5, 399.2.5, 399.8, 399.11, 399.12, 399.12.5, 399.13, 399.15, 399.16, 399.17, 454.5, 464, 848.1, 1822, 2774.6, 2827, and 9502 of, to add Sections ~~322~~, 345.1, 345.2, and 411 to, to repeal Sections 346, 350, 360, and 365 of, to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal Division 1.5 (commencing with Section 3300) of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2561, as amended, Villines. Energy: commission and department.

(1) Existing law establishes the State Energy Resources Conservation and Development Commission and the Electricity Oversight Board with jurisdiction related to energy matters. Existing law also provides the Office of Planning and Research, the Department of General Services, and the Office of the State Architect with jurisdiction over certain energy-related matters.

This bill would abolish the State Energy Resources Conservation and Development Commission and the Electricity Oversight Board. The bill would create the Department of Energy, headed by a Secretary of Energy, and would create the California Energy Board within the department. The bill would provide for the creation of various divisions and subdivisions as deemed necessary by the secretary. The secretary would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would require the Governor to appoint the initial secretary by January 31, 2011. The bill would authorize the Governor to appoint an Assistant Secretary of Energy who would serve at the pleasure of the Governor. The bill would require the department to create a legal subcommittee comprised of specified members to develop a single statewide position on litigation concerning energy matters.

The bill would provide that the California Energy Board consists of the following members: the Secretary of Energy who would be the chair of the board, 4 members of the public with qualifications, as specified, appointed by the Governor and subject to confirmation by the Senate, the Secretary of the Natural Resources Agency, and the President of the California Public Utilities Commission. The Secretary of the Natural Resources Agency and the President of the California Public Utilities Commission would serve as ex officio, nonvoting members of the board. The bill would specify that the public members shall serve for a term of 4 years. The bill would require the board to nominate, for appointment by the Governor, a public adviser to the board who would serve for a 3-year term and may be removed upon the joint concurrence of 4 board members and the Governor.

The bill would transfer certain authority and duties of the former Electricity Oversight Board to the Secretary of Energy and the Department of Energy.

The bill would vest the new department and the California Energy Board with the powers, duties, responsibilities, obligations, liabilities, jurisdiction, and rights and privileges of the State Energy Resources Conservation and Development Commission, as specified.

The bill would also transfer jurisdiction of certain energy-related matters from the Office of Planning and Research, the Department of General Services, and the Office of the State Architect to the Department of Energy or the California Energy ~~Commission~~ *board*, as specified.

(2) Existing law established the Katz Safe Schoolbus Clean Fuel Efficiency Demonstration Program to assist local educational agencies in replacing older schoolbuses with schoolbuses meeting federal safety standards that operate with greater efficiency and fewer adverse air emissions.

This bill would repeal this program.

(3) Existing law establishes the Small Business Energy Efficient Refrigeration Program and the State Solar Medallion Passive Design Competition.

This bill would repeal the program and competition.

(4) The California Consumer Power and Conservation Financing Authority Act establishes the California Consumer Power and Conservation Financing Authority and authorizes the authority to take various actions related to the generation and transmission of electricity and renewable energy, energy efficiency, and conservation programs.

This bill would repeal that act.

(5) Existing law requires the Department of Community Services and Development to administer federal funds for programs to provide energy assistance to qualified low-income households and to administer the community services block grant program.

This bill would delete obsolete provisions.

(6) The bill would make conforming changes in existing law.

(7) The bill would provide that the provisions of the bill are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1250.310 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1250.310. The complaint shall contain all of the following:
- 4 (a) The names of all plaintiffs and defendants.

1 (b) A description of the property sought to be taken. The  
2 description may, but is not required to, indicate the nature or extent  
3 of the interest of the defendant in the property.

4 (c) If the plaintiff claims an interest in the property sought to  
5 be taken, the nature and extent of the interest.

6 (d) A statement of the right of the plaintiff to take by eminent  
7 domain the property described in the complaint. The statement  
8 shall include:

9 (1) A general statement of the public use for which the property  
10 is to be taken.

11 (2) An allegation of the necessity for the taking as required by  
12 Section 1240.030; where the plaintiff is a public entity, a reference  
13 to its resolution of necessity; where the plaintiff is a quasi-public  
14 entity within the meaning of Section 1245.320, a reference to the  
15 resolution adopted pursuant to Article 3 (commencing with Section  
16 1245.310) of Chapter 4; where the plaintiff is a nonprofit hospital,  
17 a reference to the certificate required by Section 1260 of the Health  
18 and Safety Code; where the plaintiff is a public utility and relies  
19 on a certification of the California Energy Board or a requirement  
20 of the California Energy Board that development rights be acquired,  
21 a reference to that certification or requirement.

22 (3) A reference to the statute that authorizes the plaintiff to  
23 acquire the property by eminent domain. Specification of the  
24 statutory authority may be in the alternative and may be  
25 inconsistent.

26 (e) A map or diagram portraying as far as practicable the  
27 property described in the complaint and showing its location in  
28 relation to the project for which it is to be taken.

29 SEC. 2. Section 14074 of the Corporations Code is amended  
30 to read:

31 14074. The agency shall enter into an agreement with the  
32 Department of Energy to assist small business owners in reducing  
33 their energy costs through low interest loans and by providing  
34 assistance and information.

35 SEC. 3. Part 10.7 (commencing with Section 17910) of  
36 Division 1 of Title 1 of the Education Code is repealed.

37 SEC. 4. Section 17925 of the Education Code is repealed.

38 SEC. 5. Section 41304 of the Education Code is repealed.

39 SEC. 6. Section 32940 of the Financial Code is amended to  
40 read:

1 32940. Guidelines for approving loan applications shall be  
2 developed by the board on or before May 1, 1987. In developing  
3 those guidelines, the board shall incorporate the recommendations  
4 adopted by the Department of Energy with respect to technical  
5 criteria that are to be applied to projects receiving loans from the  
6 corporation pursuant to this chapter. The corporation may contract  
7 with the Department of Energy for the purpose of developing  
8 technical guidelines.

9 SEC. 7. Section 32942 of the Financial Code is amended to  
10 read:

11 32942. Loans shall be approved according to criteria established  
12 by a credit committee, chaired by the chief financial officer of the  
13 corporation or that officer's designee. The other members of the  
14 committee shall be the member of the board appointed by the  
15 Department of Energy and the corporate president.

16 SEC. 8. Section 9100 of the Fish and Game Code is amended  
17 to read:

18 9100. The Department of Energy shall implement a revolving  
19 loan fund program to assist low-income fishing fleet operators  
20 reduce their energy costs and conserve fuel by providing  
21 low-interest loans to those operators.

22 SEC. 9. Section 9101 of the Fish and Game Code is amended  
23 to read:

24 9101. Commencing January 1, 1994, and thereafter biennially,  
25 the Department of Energy shall report to the Legislature on the  
26 status of the loan program, including the number and the amounts  
27 of loans made, the amount of loans repaid, and a comparison of  
28 the ethnic background of the loan recipients with the ethnic  
29 background of the low-income fishing fleet operators.

30 SEC. 10. Section 11041 of the Government Code is amended  
31 to read:

32 11041. (a) Sections 11042 and 11043 do not apply to the  
33 Regents of the University of California, the Trustees of the  
34 California State University, Legal Division of the Department of  
35 Transportation, Division of Labor Standards Enforcement of the  
36 Department of Industrial Relations, Workers' Compensation  
37 Appeals Board, Public Utilities Commission, Department of  
38 Energy, State Compensation Insurance Fund, Legislative Counsel  
39 Bureau, Inheritance Tax Department, Secretary of State, State  
40 Lands Commission, Alcoholic Beverage Control Appeals Board

1 (except when the board affirms the decision of the Department of  
2 Alcoholic Beverage Control), State Department of Education, and  
3 Treasurer with respect to bonds, nor to any other state agency  
4 which, by law enacted after Chapter 213 of the Statutes of 1933,  
5 is authorized to employ legal counsel.

6 (b) The Trustees of the California State University shall pay the  
7 cost of employing legal counsel from their existing resources.

8 SEC. 11. Section 11550 of the Government Code is amended  
9 to read:

10 11550. (a) Effective January 1, 1988, an annual salary of  
11 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to  
12 each of the following:

- 13 (1) Director of Finance.
- 14 (2) Secretary of Business, Transportation and Housing.
- 15 (3) Secretary of the Resources Agency.
- 16 (4) Secretary of California Health and Human Services.
- 17 (5) Secretary of State and Consumer Services.
- 18 (6) Commissioner of the California Highway Patrol.
- 19 (7) Secretary of the Department of Corrections and  
20 Rehabilitation.
- 21 (8) Secretary of Food and Agriculture.
- 22 (9) Secretary of Veterans Affairs.
- 23 (10) Secretary of Labor and Workforce Development.
- 24 (11) State Chief Information Officer.
- 25 (12) Secretary for Environmental Protection.
- 26 (13) Secretary of California Emergency Management.
- 27 (14) Secretary of Energy.

28 (b) The annual compensation provided by this section shall be  
29 increased in any fiscal year in which a general salary increase is  
30 provided for state employees. The amount of the increase provided  
31 by this section shall be comparable to, but shall not exceed, the  
32 percentage of the general salary increases provided for state  
33 employees during that fiscal year.

34 SEC. 12. Section 11553 of the Government Code is amended  
35 to read:

36 11553. (a) Effective January 1, 1988, an annual salary of  
37 eighty-one thousand six hundred thirty-five dollars (\$81,635) shall  
38 be paid to each of the following:

- 39 (1) Chairperson of the Unemployment Insurance Appeals Board.
- 40 (2) Chairperson of the Agricultural Labor Relations Board.

- 1 (3) President of the Public Utilities Commission.
- 2 (4) Chairperson of the Fair Political Practices Commission.
- 3 (5) Chairperson of the Public Employment Relations Board.
- 4 (6) Chairperson of the Workers' Compensation Appeals Board.
- 5 (7) Administrative Director of the Division of Industrial
- 6 Accidents.
- 7 (8) Chairperson of the State Water Resources Control Board.

8 (b) The annual compensation provided by this section shall be  
 9 increased in any fiscal year in which a general salary increase is  
 10 provided for state employees. The amount of the increase provided  
 11 by this section shall be comparable to, but shall not exceed, the  
 12 percentage of the general salary increases provided for state  
 13 employees during that fiscal year.

14 (c) Notwithstanding subdivision (b), any salary increase is  
 15 subject to Section 11565.5.

16 SEC. 13. Section 11553.5 of the Government Code is amended  
 17 to read:

18 11553.5. (a) Effective January 1, 1988, an annual salary of  
 19 seventy-nine thousand one hundred twenty-two dollars (\$79,122)  
 20 shall be paid to the following:

- 21 (1) Member of the Agricultural Labor Relations Board.
- 22 (2) Member of the California Energy Board.
- 23 (3) Member of the Public Utilities Commission.
- 24 (4) Member of the Public Employment Relations Board.
- 25 (5) Member of the Unemployment Insurance Appeals Board.
- 26 (6) Member of the Workers' Compensation Appeals Board.
- 27 (7) Member of the State Water Resources Control Board.

28 (b) The annual compensation provided by this section shall be  
 29 increased in any fiscal year in which a general salary increase is  
 30 provided for state employees. The amount of the increase provided  
 31 by this section shall be comparable to, but shall not exceed, the  
 32 percentage of the general cost-of-living salary increases provided  
 33 for state employees during that fiscal year.

34 (c) Notwithstanding subdivision (b), any salary increase is  
 35 subject to Section 11565.5.

36 SEC. 16. Section 12802.5 of the Government Code is amended  
 37 to read:

38 12802.5. The Governor may, with respect to the Resources  
 39 Agency, appoint a Deputy Secretary for Energy Matters who may  
 40 serve as Secretary of the Natural Resources designee on the

1 California Energy Board and an Assistant Secretary for Coastal  
2 Matters who may serve as Secretary of the Natural Resources  
3 designee on the State Coastal Commission.

4 SEC. 17. Section 12805 of the Government Code is amended  
5 to read:

6 12805. (a) The Resources Agency is hereby renamed the  
7 Natural Resources Agency. The Natural Resources Agency consists  
8 of the departments of Forestry and Fire Protection, Conservation,  
9 Fish and Game, Boating and Waterways, Parks and Recreation,  
10 Resources Recycling and Recovery, and Water Resources; the  
11 State Lands Commission; the Colorado River Board; the San  
12 Francisco Bay Conservation and Development Commission; the  
13 Central Valley Flood Protection Board; the Wildlife Conservation  
14 Board; the Delta Protection Commission; the Native American  
15 Heritage Commission; the California Conservation Corps; the  
16 California Coastal Commission; the State Coastal Conservancy;  
17 the California Tahoe Conservancy; the Santa Monica Mountains  
18 Conservancy; the Coachella Valley Mountains Conservancy; the  
19 San Joaquin River Conservancy; the San Gabriel and Lower Los  
20 Angeles Rivers and Mountains Conservancy; the Baldwin Hills  
21 Conservancy; the San Diego River Conservancy; and the Sierra  
22 Nevada Conservancy.

23 (b) No existing supplies, forms, insignias, signs, or logos shall  
24 be destroyed or changed as a result of changing the name of the  
25 Resources Agency to the Natural Resources Agency, and those  
26 materials shall continue to be used until exhausted or unserviceable.

27 SEC. 18. Section 14450 of the Government Code is amended  
28 to read:

29 14450. The department, in preparing its research and  
30 development program, shall consult with other parts of the  
31 transportation industry, including the private and public sectors,  
32 in order to obtain maximum input designed to develop a balanced  
33 multimodal research and development program. The department  
34 shall also consult with affected state agencies, including the  
35 Department of Motor Vehicles, the State Air Resources Board,  
36 and the Department of the California Highway Patrol.

37 SEC. 19. Section 14684 of the Government Code is amended  
38 to read:

39 14684. (a) The department, in consultation with the  
40 Department of Energy, shall ensure that solar energy equipment

1 is installed, no later than January 1, 2007, on all state buildings  
2 and state parking facilities, where feasible. The department shall  
3 establish a schedule designating when solar energy equipment will  
4 be installed on each building and facility, with priority given to  
5 buildings and facilities where installation is most feasible, both  
6 for state building and facility use and consumption and local  
7 publicly owned electric utility use, where feasible.

8 (b) Solar energy equipment shall be installed where feasible as  
9 part of the construction of all state buildings and state parking  
10 facilities that commences after December 31, 2002.

11 (c) For purposes of this section, it is feasible to install solar  
12 energy equipment if adequate space on a building is available, and  
13 if the solar energy equipment is cost effective.

14 (d) This section does not exempt the state from any applicable  
15 fee or requirement imposed by the Public Utilities Commission.

16 (e) The department may adopt regulations for the purposes of  
17 this section as emergency regulations in accordance with Chapter  
18 3.5 (commencing with Section 11340) of Part 1. For purposes of  
19 Chapter 3.5 (commencing with Section 11340) of Part 1, including,  
20 but not limited to, Section 11349.6, the adoption of the regulations  
21 shall be considered by the Office of Administrative Law to be  
22 necessary for the immediate preservation of the public peace,  
23 health, safety, and general welfare. Notwithstanding the 120-day  
24 limit specified in subdivision (e) of Section 11346.1, the regulations  
25 shall be repealed 180 days after their effective date, unless the  
26 department complies with Chapter 3.5 (commencing with Section  
27 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

28 (f) For purposes of this section, the following terms have the  
29 following meanings:

30 (1) "Cost effective" means that the present value of the savings  
31 generated over the life of the solar energy system, including  
32 consideration of the value of the energy produced during peak and  
33 off-peak demand periods and the value of a reliable energy supply  
34 not subject to price volatility, shall exceed the present value cost  
35 of the solar energy equipment by not less than 10 percent. The  
36 present value cost of the solar energy equipment does not include  
37 the cost of unrelated building components. The department, in  
38 making the present value assessment, shall obtain interest rates,  
39 discount rates, and consumer price index figures from the

1 Treasurer, and shall take into consideration air emission reduction  
2 benefits.

3 (2) “Local publicly owned electric utility” means a local publicly  
4 owned electric utility as defined in Section 9604 of the Public  
5 Utilities Code.

6 (3) “Solar energy equipment” means equipment whose primary  
7 purpose is to provide for the collection, conversion, storage, or  
8 control of solar energy for electricity generation.

9 SEC. 20. Section 14684.1 of the Government Code is amended  
10 to read:

11 14684.1. (a) The department, in consultation with the  
12 Department of Energy, shall ensure that solar energy equipment  
13 is installed, no later than January 1, 2009, on all state buildings,  
14 state parking facilities, and state-owned swimming pools that are  
15 heated with fossil fuels or electricity, where feasible. The  
16 department shall establish a schedule designating when solar energy  
17 equipment will be installed on each building and facility, with  
18 priority given to buildings and facilities where installation is most  
19 feasible.

20 (b) Solar energy equipment shall be installed, where feasible,  
21 as part of the construction of all state buildings and state parking  
22 facilities for which construction commences on or after January  
23 1, 2008.

24 (c) For purposes of this section, it is feasible to install solar  
25 energy equipment if adequate space on or adjacent to a building  
26 is available, if the solar energy equipment is cost effective, and if  
27 funding is available from the state or another source.

28 (d) Any solar energy equipment installed pursuant to this section  
29 shall meet applicable standards and requirements imposed by state  
30 and local permitting authorities, including, but not limited to, all  
31 of the following:

32 (1) Certification by the Solar Rating and Certification  
33 Corporation, which is a nonprofit third party supported by the  
34 United States Department of Energy, or any other nationally  
35 recognized certification agency.

36 (2) All applicable safety and performance standards established  
37 by the National Electrical Code, the Institute of Electrical and  
38 Electronics Engineers, and accredited testing laboratories, such as  
39 the Underwriters Laboratories.

1 (3) Where applicable, the regulations adopted by the Public  
2 Utilities Commission regarding safety and reliability.

3 (e) This section does not exempt the state from the payment of  
4 any applicable fee or requirement imposed by the Public Utilities  
5 Commission.

6 (f) The department may adopt regulations for the purposes of  
7 this section as emergency regulations in accordance with Chapter  
8 3.5 (commencing with Section 11340) of Part 1. For purposes of  
9 that chapter, including, but not limited to, Section 11349.6, the  
10 adoption of the regulations shall be considered by the Office of  
11 Administrative Law to be necessary for the immediate preservation  
12 of the public peace, health, safety, and general welfare.  
13 Notwithstanding the 120-day limit specified in subdivision (e) of  
14 Section 11346.1, the regulations shall be repealed 180 days after  
15 their effective date, unless the department complies with Chapter  
16 3.5 (commencing with Section 11340) of Part 1 as provided in  
17 subdivision (e) of Section 11346.1.

18 (g) Any solar energy equipment installed pursuant to this section  
19 shall be subject to the provisions of the California Solar Rights  
20 Act of 1978 (Chapter 1154 of the Statutes of 1978), as amended.

21 (h) For purposes of this section, the following terms have the  
22 following meanings:

23 (1) “Cost effective” means that the present value of the savings  
24 generated over the life of the solar energy system, including  
25 consideration of the value of the energy produced during peak and  
26 off-peak demand periods and the value of a reliable energy supply  
27 not subject to price volatility, shall exceed the present value cost  
28 of the solar energy equipment by not less than 10 percent. The  
29 present value cost of the solar energy equipment does not include  
30 the cost of unrelated building components. The department, in  
31 making the present value assessment, shall obtain interest rates,  
32 discount rates, and consumer price index figures from the  
33 Treasurer, and shall take into consideration air emission reduction  
34 benefits and the value of stable energy costs.

35 (2) “Local publicly owned electric utility” means a local publicly  
36 owned electric utility as defined in subdivision (d) of Section 9604  
37 of the Public Utilities Code.

38 (3) “Solar energy equipment” means equipment whose primary  
39 purpose is to provide for the collection, conversion, storage, or  
40 control of solar energy for the purpose of heat production,

1 electricity production, or simultaneous heat and electricity  
2 production.

3 SEC. 21. Section 15814.22 of the Government Code is amended  
4 to read:

5 15814.22. The Department of General Services, in consultation  
6 with the Department of Energy and other state agencies and  
7 departments, shall develop a multiyear plan, to be updated  
8 biennially, with the goal of exploiting all practicable and  
9 cost-effective energy efficiency measures in state facilities. The  
10 department shall coordinate plan implementation efforts, and make  
11 recommendations to the Governor and the Legislature to achieve  
12 energy efficiency goals for state facilities.

13 SEC. 22. Section 15814.23 of the Government Code is amended  
14 to read:

15 15814.23. The Department of General Services or each state  
16 agency having jurisdiction shall ensure that all new state buildings  
17 are designed and constructed to meet at least the minimum energy  
18 efficiencies specified in standards adopted by the Department of  
19 Energy pursuant to Section 25402 of the Public Resources Code.  
20 In the design and construction of new state buildings, the  
21 department or other responsible state agency shall also consider  
22 additional state-of-the-art energy efficiency design measures and  
23 equipment, beyond those required by the standards, that are cost  
24 effective and feasible.

25 SEC. 23. Section 15814.25 of the Government Code, as  
26 amended by Section 48 of Chapter 193 of the Statutes of 2004, is  
27 amended and renumbered to read:

28 15814.24.1. Energy conservation measures eligible for  
29 financing by kindergarten through grade 12 schools shall be limited  
30 to those measures recommended pursuant to an energy audit  
31 provided by the Department of Energy under its existing authority.

32 SEC. 24. Section 15814.30 of the Government Code is amended  
33 to read:

34 15814.30. (a) All new public buildings for which construction  
35 begins after January 1, 1993, shall be models of energy efficiency  
36 and shall be designed, constructed, and equipped with all energy  
37 efficiency measures, materials, and devices that are feasible and  
38 cost effective over the life of the building or the life of the energy  
39 efficiency measure, whichever is less.

1 (b) In determining which energy efficiency measures, materials,  
2 and devices are feasible and cost effective over the life of the  
3 building, the State Architect and the Department of General  
4 Services shall consult with the Department of Energy.

5 (c) For purposes of this section, “cost effective” means that  
6 savings generated over the life of the building or the life of the  
7 energy efficiency measure, whichever is less, shall exceed the cost  
8 of purchasing and installing the energy efficiency measures,  
9 materials, or devices by not less than 10 percent.

10 SEC. 25. Section 15814.34 of the Government Code is amended  
11 to read:

12 15814.34. (a) The Legislature finds and declares all of the  
13 following:

14 (1) The state purchases a number of commodities, including,  
15 but not limited to, lighting fixtures, heating, ventilation and  
16 air-conditioning units, and copiers, that cumulatively account for  
17 a significant portion of the energy consumed by state operations.

18 (2) The state can realize significant energy savings and reduced  
19 energy costs by purchasing brands or models of commonly used  
20 commodities with low life cycle costs.

21 (3) Commodities necessary for state operations may be  
22 purchased directly by the state department or agency using the  
23 commodity, or may be purchased by the Department of General  
24 Services on behalf of other state departments or agencies.

25 (4) In order to increase energy efficiency and reduce costs to  
26 the taxpayers of the state, the state should make every reasonable  
27 effort to identify and purchase those commodities that have the  
28 lowest life cycle cost and meet the operational requirements of the  
29 state.

30 (b) The Department of General Services shall, on an ongoing  
31 basis, do all of the following:

32 (1) Identify commodities purchased by the department that,  
33 individually or on a statewide basis, consume a significant amount  
34 of energy.

35 (2) For each commodity identified pursuant to paragraph (1),  
36 determine the life cycle cost of the following:

37 (A) The brand or model of the commodity purchased by the  
38 department.

1 (B) The brand or model of the commodity that has the lowest  
2 life cycle cost, provided it is available for purchase by the state  
3 and meets all operational specifications of the state.

4 (3) Consult with the Department of Energy in the development  
5 and revision of one or more methods of determining the life cycle  
6 costs of commodities.

7 (c) In order to assist other agencies and departments in  
8 identifying commodities with the lowest life cycle costs, the  
9 Department of General Services shall distribute the following to  
10 all state agencies and departments:

11 (1) A list of those commodities with the lowest life cycle costs,  
12 as determined pursuant to paragraph (2) of subdivision (b).

13 (2) The method or methods used by the Department of General  
14 Services to determine the life cycle costs of commodities.

15 (d) The method or methods used by the Department of General  
16 Services to calculate the life cycle costs of commodities shall be  
17 designed to be easily understood and used by purchasing agents  
18 and other personnel in making purchasing decisions.

19 (e) Notwithstanding any other provision of law, all state agencies  
20 and departments shall purchase those commodities identified  
21 pursuant to subdivision (b) that have the lowest life cycle costs  
22 and that meet the applicable specifications, and shall make every  
23 reasonable effort to identify and purchase other commodities with  
24 the lowest life cycle costs.

25 (f) “Life cycle cost” for the purposes of this section, means the  
26 total cost of purchasing, installing, maintaining, and operating a  
27 device or system during its reasonably expected life. It includes,  
28 but is not necessarily limited to, capital costs, labor costs, energy  
29 costs, and operating and maintenance costs.

30 SEC. 28. Section 16366.2 of the Government Code is amended  
31 to read:

32 16366.2. As used in this article, “local service provider” means  
33 a public or private nonprofit entity, as defined by federal law and  
34 regulation, that provides service directly to eligible beneficiaries.

35 SEC. 29. Section 16366.3 of the Government Code is repealed.

36 SEC. 30. Section 16366.35 of the Government Code is amended  
37 to read:

38 16366.35. Local service providers designated by the state shall  
39 be granted maximum flexibility in administering federal categorical  
40 and block grant programs to the extent permitted by state planning

1 requirements. It is the intent of the Legislature in enacting this  
2 section to provide the local service providers maximum flexibility  
3 in setting priorities in these programs for any reduced funding  
4 consistent with federal and state law and policy.

5 SEC. 31. Section 16366.4 of the Government Code is repealed.

6 SEC. 32. Section 16366.5 of the Government Code is repealed.

7 SEC. 33. Section 16366.6 of the Government Code is amended  
8 to read:

9 16366.6. (a) The funds shall be used to serve beneficiaries and  
10 households, as defined in the federal laws and regulations  
11 establishing the block grant programs or as further defined in this  
12 chapter.

13 (b) Federal funds shall be received by the Controller and held  
14 in a separate account of the federal trust fund in accordance with  
15 state law governing the administration of federal funds.

16 SEC. 34. Section 16366.7 of the Government Code is amended  
17 to read:

18 16366.7. Notwithstanding any other provision of law:

19 (a) All state agencies, offices, or departments administering  
20 federal block grant funds shall have the authority, subject to the  
21 approval of the Department of Finance, to grant advance payments  
22 of federal funds to contractors or local governmental agencies in  
23 any amounts as the administering state department deems necessary  
24 for startup or continued provision of services or program operation.

25 (b) Departmental service contracts utilizing federal block grant  
26 funds shall be exempt from approval by the Department of Finance  
27 and the State Department of General Services prior to their  
28 execution. Instead, the proper state fiscal controls over federal  
29 block grant funds shall be insured by all of the following  
30 provisions:

31 (1) State departments that award block grant funds to local  
32 agencies shall permit, as appropriate, to the extent that federal  
33 funds are available for this purpose, local agencies to provide for  
34 federally mandated financial and compliance audits of block grant  
35 awards in accordance with the federal audit provisions and  
36 standards promulgated by the Comptroller General of the United  
37 States, and consistent with the department’s approved audit plan.

38 (2) The Department of Finance, in consultation with the  
39 Controller, shall establish fiscal reporting requirements for the  
40 departments to use on a quarterly basis with all providers.

1 (3) In the event a contractor has not engaged in a contract for  
2 these program purposes before with the state, state administering  
3 departments shall have the authority to conduct a preaudit or fund  
4 a preaudit by the Controller in order to certify the ability of the  
5 contractor to administer the funds.

6 (4) The State Auditor shall provide audit findings regarding  
7 each block grant to the Legislature no later than May 1 of each  
8 year.

9 (c) Each administering state department shall develop standard  
10 definitions for units of service, costs per unit of service, citizen  
11 participation processes, and due process notification for clients in  
12 relation to diminishing federal funds and shall incorporate all of  
13 these elements into each agreement or contract.

14 (d) Compliance with this section shall be consistent with federal  
15 policies and procedures. Reports required under this section shall  
16 be combined, where practical, with any other similar reports  
17 required by the Legislature and by the federal government.

18 SEC. 35. Section 16366.8 of the Government Code is repealed.

19 SEC. 36. Section 16366.9 of the Government Code is repealed.

20 SEC. 44. Section 16367.8 of the Government Code is repealed.

21 SEC. 45. Section 66645 of the Government Code is amended  
22 to read:

23 66645. (a) In addition to the provisions of Sections 25302,  
24 25500, 25519, 25523, and 25526 of the Public Resources Code,  
25 the provisions of this section shall apply to the commission and  
26 the Department of Energy with respect to matters within the  
27 statutory responsibility of the latter.

28 (b) After one or more public hearings, and prior to January 1,  
29 1979, the commission shall designate those specific locations  
30 within the Suisun Marsh, as defined in Section 29101 of the Public  
31 Resources Code, or the area of jurisdiction of the commission,  
32 where the location of a facility, as defined in Section 25110 of the  
33 Public Resources Code, would be inconsistent with this title or  
34 Division 19 (commencing with Section 29000) of the Public  
35 Resources Code. The following locations, however, shall not be  
36 so designated: (1) any property of a utility that is used for such a  
37 facility or will be used for the reasonable expansion thereof; (2)  
38 any site for which a notice of intention to file an application for  
39 certification has been filed pursuant to Section 25502 of the Public  
40 Resources Code prior to January 1, 1978, and is subsequently

1 approved pursuant to Section 22516 of the Public Resources Code;  
2 and (3) the area east of Collinsville Road that is designated for  
3 water-related industrial use on the Suisun Marsh Protection Plan  
4 Map. Each designation made pursuant to this section shall include  
5 a description of the boundaries of those locations, the provisions  
6 of this title or Division 19 (commencing with Section 29000) of  
7 the Public Resources Code with which they would be inconsistent,  
8 and detailed findings concerning the significant adverse impacts  
9 that would result from development of a facility in the designated  
10 area. The commission shall consider the conclusions, if any,  
11 reached by the Department of Energy in its most recently  
12 promulgated comprehensive report issued pursuant to Section  
13 25309 of the Public Resources Code. The commission also shall  
14 request the assistance of the Department of Energy in carrying out  
15 the requirements of this section. The commission shall transmit a  
16 copy of its report prepared pursuant to this subdivision to the State  
17 Energy Resources Conservation and Development Commission.

18 (c) The commission shall revise and update the designations  
19 specified in subdivision (b) not less than once every five years.

20 (d) Whenever the California Energy Board within the  
21 Department of Energy exercises its siting authority and undertakes  
22 proceedings pursuant to the provisions of Chapter 6 (commencing  
23 with Section 25500) of Division 15 of the Public Resources Code  
24 with respect to any thermal powerplant of 50 megawatts or greater  
25 or transmission line to be located, in whole or in part, within the  
26 Suisun Marsh or the area of jurisdiction of the commission, the  
27 commission shall participate in those proceedings and shall receive  
28 from the Department of Energy any notice of intention to file an  
29 application for certification of a site and related facilities within  
30 the Suisun Marsh or the area of jurisdiction of the commission.  
31 The commission shall analyze an application for certification and,  
32 prior to commencement of the hearings conducted pursuant to  
33 Section 25221 of the Public Resources Code, shall forward to the  
34 Department of Energy a written report on the suitability of the  
35 proposed site and related facilities specified in that notice. The  
36 commission's report shall contain a consideration of, and findings  
37 regarding, the following:

38 (1) If it is to be located within the Suisun Marsh, the consistency  
39 of the proposed site and related facilities, with this title and  
40 Division 19 (commencing with Section 29000) of the Public

1 Resources Code, the policies of the Suisun Marsh Protection Plan  
2 (as defined in Section 29113 of the Public Resources Code) and  
3 the certified local protection program (as defined in Section 29111  
4 of the Public Resources Code) if any.

5 (2) If it is to be located within the area of jurisdiction of the  
6 commission, the consistency of the proposed site and related  
7 facilities with this title and the San Francisco Bay Plan.

8 (3) The degree to which the proposed site and related facilities  
9 could reasonably be modified so as to be consistent with this title,  
10 Division 19 (commencing with Section 29000) of the Public  
11 Resources Code, the Suisun Marsh Protection Plan, or the San  
12 Francisco Bay Plan.

13 (4) Any other matters as the commission deems appropriate  
14 and necessary to carry out Division 19 (commencing with Section  
15 29000) of the Public Resources Code.

16 SEC. 46. Section 66646 of the Government Code is amended  
17 to read:

18 66646. Notwithstanding any other provision of this title, except  
19 subdivisions (b) and (c) of Section 66645, and notwithstanding  
20 any provision of Division 19 (commencing with Section 29000)  
21 of the Public Resources Code, new or expanded electric generating  
22 plants may be constructed within the Suisun Marsh, as defined in  
23 Section 29101 of the Public Resources Code, or the area of  
24 jurisdiction of the commission, if the proposed site has been  
25 determined, pursuant to Section 25523 of the Public Resources  
26 Code, by the California Energy Board within the Department of  
27 Energy to have greater relative merit than available alternative  
28 sites and related facilities.

29 SEC. 46.1. Section 44270.3 of the Health and Safety Code is  
30 amended to read:

31 44270.3. For the purposes of this chapter, the following terms  
32 have the following meanings:

33 (a) “Department” means the Department of Energy.

34 (b) “Full fuel-cycle assessment” or “life-cycle assessment”  
35 means evaluating and comparing the full environmental and health  
36 impacts of each step in the life cycle of a fuel, including, but not  
37 limited to, all of the following:

38 (1) Feedstock production, extraction, cultivation, transport, and  
39 storage, and the transportation and use of water and changes in  
40 land use and land cover therein.

1 (2) Fuel production, manufacture, distribution, marketing,  
2 transport, and storage, and the transportation and use of water  
3 therein.

4 (3) Vehicle operation, including refueling, combustion,  
5 conversion, permeation, and evaporation.

6 (c) “Vehicle technology” means any vehicle, boat, off-road  
7 equipment, or locomotive, or component thereof, including its  
8 engine, propulsion system, transmission, or construction materials.

9 SEC. 46.2. Section 44271 of the Health and Safety Code is  
10 amended to read:

11 44271. (a) This chapter creates the Alternative and Renewable  
12 Fuel and Vehicle Technology Program, pursuant to Section 44272,  
13 to be administered by the department, and the Air Quality  
14 Improvement Program, pursuant to Section 44274, to be  
15 administered by the state board. The department, by action of the  
16 California Energy Board, and the state board shall do all of the  
17 following in fulfilling their responsibilities pursuant to their  
18 respective programs:

19 (1) Establish sustainability goals to ensure that alternative and  
20 renewable fuel and vehicle deployment projects, on a full fuel-cycle  
21 assessment basis, will not adversely impact natural resources,  
22 especially state and federal lands.

23 (2) Establish a competitive process for the allocation of funds  
24 for projects funded pursuant to this chapter.

25 (3) Identify additional federal and private funding opportunities  
26 to augment or complement the programs created pursuant to this  
27 chapter.

28 (4) Ensure that the results of the reductions in emissions or  
29 benefits can be measured and quantified.

30 (b) The state board shall develop and adopt guidelines for both  
31 the Alternative and Renewable Fuel and Vehicle Technology  
32 Program and the Air Quality Improvement Program to ensure that  
33 programs meet both of the following requirements:

34 (1) Activities undertaken pursuant to the programs complement,  
35 and do not interfere with, efforts to achieve and maintain federal  
36 and state ambient air quality standards and to reduce toxic air  
37 contaminant emissions.

38 (2) Activities undertaken pursuant to the programs maintain or  
39 improve upon emission reductions and air quality benefits in the

1 State Implementation Plan for Ozone, California Phase 2  
2 Reformulated Gasoline standards, and diesel fuel regulations.

3 (c) For the purposes of both of the programs created by this  
4 chapter, eligible projects do not include those required to be  
5 undertaken pursuant to state or federal law, district rules or  
6 regulations, memoranda of understanding with a governmental  
7 entity, or legally binding agreements or documents. For the  
8 purposes of the Alternative and Renewable Fuel and Vehicle  
9 Technology Program, the state board shall advise the department  
10 to ensure the requirements of this subdivision are met.

11 SEC. 46.3. Section 44272 of the Health and Safety Code is  
12 amended to read:

13 44272. (a) The Alternative and Renewable Fuel and Vehicle  
14 Technology Program is hereby created. The program shall be  
15 administered by the department. The department, by action of the  
16 California Energy Board, shall implement the program by  
17 regulation pursuant to the requirements of Chapter 3.5  
18 (commencing with Section 11340) of Part 1 of Division 3 of Title  
19 2 of the Government Code. The program shall provide, upon  
20 appropriation by the Legislature, competitive grants, revolving  
21 loans, loan guarantees, loans, or other appropriate funding  
22 measures, to public agencies, vehicle and technology entities,  
23 businesses and projects, public-private partnerships, workforce  
24 training partnerships and collaboratives, fleet owners, consumers,  
25 recreational boaters, and academic institutions to develop and  
26 deploy innovative technologies that transform California's fuel  
27 and vehicle types to help attain the state's climate change policies.  
28 The emphasis of this program shall be to develop and deploy  
29 technology and alternative and renewable fuels in the marketplace,  
30 without adopting any one preferred fuel or technology.

31 (b) A project funded by the California Energy Board shall be  
32 approved at a noticed public hearing of the California Energy  
33 Board and shall be consistent with the priorities established by the  
34 investment plan adopted pursuant to Section 44272.5.

35 (c) The department, by action of the California Energy Board,  
36 shall provide preferences to those projects that maximize the goals  
37 of the Alternative and Renewable Fuel and Vehicle Technology  
38 Program, based on the following criteria, as applicable:

39 (1) The project's ability to provide a measurable transition from  
40 the nearly exclusive use of petroleum fuels to a diverse portfolio

1 of viable alternative fuels that meet petroleum reduction and  
2 alternative fuel use goals.

3 (2) The project’s consistency with existing and future state  
4 climate change policy and low-carbon fuel standards.

5 (3) The project’s ability to reduce criteria air pollutants and air  
6 toxics and reduce or avoid multimedia environmental impacts.

7 (4) The project’s ability to decrease, on a life-cycle basis, the  
8 discharge of water pollutants or any other substances known to  
9 damage human health or the environment, in comparison to the  
10 production and use of California Phase 2 Reformulated Gasoline  
11 or diesel fuel produced and sold pursuant to California diesel fuel  
12 regulations set forth in Article 2 (commencing with Section 2281)  
13 of Chapter 5 of Division 3 of Title 13 of the California Code of  
14 Regulations.

15 (5) The project does not adversely impact the sustainability of  
16 the state’s natural resources, especially state and federal lands.

17 (6) The project provides nonstate matching funds.

18 (7) The project provides economic benefits for California by  
19 promoting California-based technology firms, jobs, and businesses.

20 (8) The project uses existing or proposed fueling infrastructure  
21 to maximize the outcome of the project.

22 (9) The project’s ability to reduce on a life-cycle assessment  
23 greenhouse gas emissions by at least 10 percent, and higher  
24 percentages in the future, from current reformulated gasoline and  
25 diesel fuel standards established by the state board.

26 (10) The project’s use of alternative fuel blends of at least 20  
27 percent, and higher blend ratios in the future, with a preference  
28 for projects with higher blends.

29 (11) The project drives new technology advancement for  
30 vehicles, vessels, engines, and other equipment, and promotes the  
31 deployment of that technology in the marketplace.

32 (d) Only the following shall be eligible for funding:

33 (1) Alternative and renewable fuel projects to develop and  
34 improve alternative and renewable low-carbon fuels, including  
35 electricity, ethanol, dimethyl ether, renewable diesel, natural gas,  
36 hydrogen, and biomethane, among others, and their feedstocks  
37 that have high potential for long-term or short-term  
38 commercialization, including projects that lead to sustainable  
39 feedstocks.

1 (2) Demonstration and deployment projects that optimize  
2 alternative and renewable fuels for existing and developing engine  
3 technologies.

4 (3) Projects to produce alternative and renewable low-carbon  
5 fuels in California.

6 (4) Projects to decrease the overall impact of an alternative and  
7 renewable fuel's life-cycle carbon footprint and increase  
8 sustainability.

9 (5) Alternative and renewable fuel infrastructure, fueling  
10 stations, and equipment. The preference in paragraph (10) of  
11 subdivision (c) shall not apply to renewable diesel or biodiesel  
12 infrastructure, fueling stations, and equipment used solely for  
13 renewable diesel or biodiesel fuel.

14 (6) Projects to develop and improve light-, medium-, and  
15 heavy-duty vehicle technologies that provide for better fuel  
16 efficiency and lower greenhouse gas emissions, alternative fuel  
17 usage and storage, or emission reductions, including propulsion  
18 systems, advanced internal combustion engines with a 40 percent  
19 or better efficiency level over the current market standard,  
20 light-weight materials, energy storage, control systems and system  
21 integration, physical measurement and metering systems and  
22 software, development of design standards and testing and  
23 certification protocols, battery recycling and reuse, engine and fuel  
24 optimization electronic and electrified components, hybrid  
25 technology, plug-in hybrid technology, battery electric vehicle  
26 technology, fuel cell technology, and conversions of hybrid  
27 technology to plug-in technology through the installation of safety  
28 certified supplemental battery modules.

29 (7) Programs and projects that accelerate the commercialization  
30 of vehicles and alternative and renewable fuels including buy-down  
31 programs through near-market and market-path deployments,  
32 advanced technology warranty or replacement insurance,  
33 development of market niches, supply-chain development, and  
34 research related to the pedestrian safety impacts of vehicle  
35 technologies and alternative and renewable fuels.

36 (8) Programs and projects to retrofit medium- and heavy-duty  
37 on-road and nonroad vehicle fleets with technologies that create  
38 higher fuel efficiencies, including alternative and renewable fuel  
39 vehicles and technologies, idle management technology, and  
40 aerodynamic retrofits that decrease fuel consumption.

1 (9) Infrastructure projects that promote alternative and renewable  
2 fuel infrastructure development connected with existing fleets,  
3 public transit, and existing transportation corridors, including  
4 physical measurement or metering equipment and truck stop  
5 electrification.

6 (10) Workforce training programs related to alternative and  
7 renewable fuel feedstock production and extraction, renewable  
8 fuel production, distribution, transport, and storage,  
9 high-performance and low-emission vehicle technology and high  
10 tower electronics, automotive computer systems, mass transit fleet  
11 conversion, servicing, and maintenance, and other sectors or  
12 occupations related to the purposes of this chapter.

13 (11) Block grants administered by not-for-profit technology  
14 entities for multiple projects, education and program promotion  
15 within California, and development of alternative and renewable  
16 fuel and vehicle technology centers.

17 (12) Life-cycle and multimedia analyses, sustainability and  
18 environmental impact evaluations, and market, financial, and  
19 technology assessments performed by a state agency to determine  
20 the impacts of increasing the use of low-carbon transportation fuels  
21 and technologies, and to assist in the preparation of the investment  
22 plan and program implementation.

23 (e) The California Energy Board may make a single source or  
24 sole source award pursuant to this section for applied research.  
25 The same requirements set forth in Section 25620.5 of the Public  
26 Resources Code shall apply to awards made on a single source  
27 basis or a sole source basis. This subdivision does not authorize  
28 the California Energy Board to make a single source or sole source  
29 award for a project or activity other than for applied research.

30 (f) Until January 1, 2012, the California Energy Board may  
31 contract with the Treasurer to expend funds through programs  
32 implemented by the Treasurer, if that expenditure is consistent  
33 with all of the requirements of this chapter.

34 SEC. 46.4. Section 44272.5 of the Health and Safety Code is  
35 amended to read:

36 44272.5. (a) The department shall develop and the California  
37 Energy Board shall adopt an investment plan to determine priorities  
38 and opportunities for the Alternative and Renewable Fuel and  
39 Vehicle Technology Program created pursuant to this chapter. The  
40 investment plan shall establish priorities for investment of funds

1 and technologies to achieve the goals of this chapter and describe  
2 how funding will complement existing public and private  
3 investments, including existing state programs that further the  
4 goals of this chapter. The department shall create and consult with  
5 an advisory body as it develops the investment plan. The advisory  
6 body is subject to the Bagley-Keene Open Meeting Act (Article  
7 9 (commencing with Section 11120) of Chapter 1 of Part 1 of  
8 Division 3 of Title 2 of the Government Code). The California  
9 Energy Board shall, at a minimum, hold one public hearing on the  
10 advisory body's recommendations prior to approving the  
11 investment plan.

12 (b) Membership of the advisory body created pursuant to  
13 subdivision (a) shall include, but is not limited to, representatives  
14 of fuel and vehicle technology entities, labor organizations,  
15 environmental organizations, community-based justice and public  
16 health organizations, recreational boaters, consumer advocates,  
17 academic institutions, workforce training groups, and private  
18 industry. The advisory body shall also include representatives from  
19 the Natural Resources Agency, the Business, Transportation and  
20 Housing Agency, the Labor and Workforce Development Agency,  
21 and the California Environmental Protection Agency.

22 (c) The California Energy Board, shall hold at least three public  
23 workshops in different regions of the state and one public hearing  
24 prior to approving the investment plan. The department shall  
25 annually update the plan and the California Energy Board shall  
26 approve the plan. The California Energy Board shall reconvene  
27 and consult with the advisory body created pursuant to subdivision  
28 (a) prior to the department annually updating the plan and the  
29 California Energy Board approving the plan.

30 SEC. 46.5. Section 44273 of the Health and Safety Code is  
31 amended to read:

32 44273. (a) The Alternative and Renewable Fuel and Vehicle  
33 Technology Fund is hereby created in the State Treasury, to be  
34 administered by the department. The moneys in the fund, upon  
35 appropriation by the Legislature, shall be expended by the  
36 department, by action of the California Energy Board, to implement  
37 the Alternative and Renewable Fuel and Vehicle Technology  
38 Program in accordance with this chapter.

39 (b) Notwithstanding any other provision of law, the sum of ten  
40 million dollars (\$10,000,000) shall be transferred annually from

1 the Public Interest Research, Development, and Demonstration  
2 Fund created by Section 384 of the Public Utilities Code to the  
3 Alternative and Renewable Fuel and Vehicle Technology Fund.  
4 Prior to the award of any funds from this source, the California  
5 Energy Board shall make a determination that the proposed project  
6 will provide benefits to electric or natural gas ratepayers based  
7 upon the California Energy Board's adopted criteria.

8 (c) Beginning with the integrated energy policy report adopted  
9 by the California Energy Board in 2011, and in the subsequent  
10 reports adopted thereafter, pursuant to Section 25302 of the Public  
11 Resources Code, the department shall include in the report an  
12 evaluation of research, development, and deployment efforts funded  
13 by this chapter. The evaluation shall include all of the following:

14 (1) A list of projects funded by the Alternative and Renewable  
15 Fuel and Vehicle Technology Fund.

16 (2) The expected benefits of the projects in terms of air quality,  
17 petroleum use reduction, greenhouse gas emissions reduction,  
18 technology advancement, and progress towards achieving these  
19 benefits.

20 (3) The overall contribution of the funded projects toward  
21 promoting a transition to a diverse portfolio of clean, alternative  
22 transportation fuels and reduced petroleum dependency in  
23 California.

24 (4) Key obstacles and challenges to meeting these goals  
25 identified through funded projects.

26 (5) Recommendations for future actions.

27 SEC. 46.7. Section 44274 of the Health and Safety Code is  
28 amended to read:

29 44274. (a) The Air Quality Improvement Program is hereby  
30 created. The program shall be administered by the state board, in  
31 consultation with the districts. The state board shall develop  
32 guidelines to implement the program. Prior to the adoption of the  
33 guidelines, the state board shall hold at least one public hearing.  
34 In addition, the state board shall hold at least three public  
35 workshops with at least one workshop in northern California, one  
36 in the central valley, and one in southern California. The purpose  
37 of the program shall be to fund, upon appropriation by the  
38 Legislature, air quality improvement projects relating to fuel and  
39 vehicle technologies. The primary purpose of the program shall  
40 be to fund projects to reduce criteria air pollutants, improve air

1 quality, and provide funding for research to determine and improve  
2 the air quality impacts of alternative transportation fuels and  
3 vehicles, vessels, and equipment technologies.

4 (b) Projects proposed for funding pursuant to subdivision (a)  
5 shall be evaluated based on their proposed or potential reduction  
6 of criteria or toxic air pollutants, cost-effectiveness, contribution  
7 to regional air quality improvement, and ability to promote the use  
8 of clean alternative fuels and vehicle technologies as determined  
9 by the state board, in coordination with the department.

10 (c) The program shall be limited to competitive grants, revolving  
11 loans, loan guarantees, loans, and other appropriate funding  
12 measures that further the purposes of the program. Projects to be  
13 funded shall include only the following:

14 (1) On- and off-road equipment projects that are cost effective.

15 (2) Projects that provide mitigation for off-road gasoline exhaust  
16 and evaporative emissions.

17 (3) Projects that provide research to determine the air quality  
18 impacts of alternative fuels and projects that study the life-cycle  
19 impacts of alternative fuels and conventional fuels, the emissions  
20 of biofuel and advanced reformulated gasoline blends, and air  
21 pollution improvements and control technologies for use with  
22 alternative fuels and vehicles.

23 (4) Projects that augment the University of California's  
24 agricultural experiment station and cooperative extension programs  
25 for research to increase sustainable biofuels production and  
26 improve the collection of biomass feedstock.

27 (5) Incentives for small off-road equipment replacement to  
28 encourage consumers to replace internal combustion engine lawn  
29 and garden equipment.

30 (6) Incentives for medium- and heavy-duty vehicles and  
31 equipment mitigation, including all of the following:

32 (A) Lower emission schoolbus programs.

33 (B) Electric, hybrid, and plug-in hybrid on- and off-road  
34 medium- and heavy-duty equipment.

35 (C) Regional air quality improvement and attainment programs  
36 implemented by the state or districts in the most impacted regions  
37 of the state.

38 (7) Workforce training initiatives related to advanced energy  
39 technology designed to reduce air pollution, including  
40 state-of-the-art equipment and goods, and new processes and

1 systems. Workforce training initiatives funded shall be broad-based  
2 partnerships that leverage other public and private job training  
3 programs and resources. These partnerships may include, though  
4 are not limited to, employers, labor unions, labor-management  
5 partnerships, community organizations, workforce investment  
6 boards, postsecondary education providers including community  
7 colleges, and economic development agencies.

8 (8) Incentives to identify and reduce emissions from high  
9 emitting light-duty vehicles.

10 (d) (1) Beginning January 1, 2011, the state board shall submit  
11 to the Legislature a biennial report to evaluate the implementation  
12 of the Air Quality Improvement Program established pursuant to  
13 this chapter.

14 (2) The report shall include all of the following:

15 (A) A list of projects funded by the Air Quality Improvement  
16 Account.

17 (B) The expected benefits of the projects in promoting clean,  
18 alternative fuels and vehicle technologies.

19 (C) Improvement in air quality and public health, greenhouse  
20 gas emissions reductions, and the progress made toward achieving  
21 these benefits.

22 (D) The impact of the projects in making progress toward  
23 attainment of state and federal air quality standards.

24 (E) Recommendations for future actions.

25 (3) The state board may include the information required to be  
26 reported pursuant to paragraph (1) in an existing report to the  
27 Legislature as the state board deems appropriate.

28 SEC. 47. Section 3805.5 of the Public Resources Code is  
29 repealed.

30 SEC. 48. Section 3806.5 is added to the Public Resources Code,  
31 to read:

32 3806.5. "Department" means the Department of Energy.

33 SEC. 49. Section 3808 of the Public Resources Code is  
34 amended to read:

35 3808. "Geothermal resources" means geothermal resources  
36 designated by the United States Geological Survey or the  
37 Department of Conservation, or by both.

38 The Department of Conservation shall periodically review, and  
39 revise as necessary, its designation of geothermal resource areas  
40 and shall transmit any changes to the department.

1 SEC. 50. Section 3810 of the Public Resources Code is  
2 amended to read:

3 3810. (a) (1) “Award repayment or program reimbursement  
4 agreement,” including a “royalty agreement,” as specified in  
5 subdivision (b), means a method used at the discretion of the  
6 department to determine and establish the terms of replenishment  
7 of program funds, including, at a minimum, repayment of the  
8 award to provide for further awards under this chapter. The award  
9 repayment or program reimbursement agreement may provide that  
10 payments be made to the department when the award recipient,  
11 affiliate of the award recipient, or third party receives, through any  
12 kind of transaction, an economic benefit from the project,  
13 invention, or product developed, made possible, or derived, in  
14 whole or in part, as a result of the award.

15 (2) An award repayment or program reimbursement agreement  
16 shall specify the method to be used by the department to determine  
17 and establish the terms of repayment and reimbursement of the  
18 award.

19 (3) The department may require due diligence of the award  
20 recipient and may take any action that is necessary to bring the  
21 project, invention, or product to market.

22 (4) Subject to the confidentiality requirements of Section 2505  
23 of Title 20 of the California Code of Regulations, the department  
24 may require access to financial, sales, and production information,  
25 and to other agreements involving transactions of the award  
26 recipient, affiliates of the award recipient, and third parties, as  
27 necessary, to ascertain the royalties or other payments due the  
28 department.

29 (b) A “royalty agreement” is an award repayment or program  
30 reimbursement agreement and is subject to all of the following  
31 conditions:

32 (1) The royalty rate shall be determined by the department and  
33 shall not exceed 5 percent of the gross revenue derived from the  
34 project, invention, or product.

35 (2) The royalty agreement shall specify the method to be used  
36 by the department to determine and establish the terms of payment  
37 of the royalty rate.

38 (3) The department shall determine the duration of the royalty  
39 agreement and may negotiate a collection schedule.

1 (4) The department, for separate consideration, may negotiate  
2 and receive payments to provide for an early termination of the  
3 royalty agreement.

4 (c) (1) The department may require that the intellectual property  
5 developed, made possible, or derived, in whole or in part, as a  
6 result of the award repayment or program reimbursement  
7 agreement, revert to the state upon a default in the terms of the  
8 award repayment or program reimbursement agreement or royalty  
9 agreement.

10 (2) The department may require advance notice of any  
11 transaction involving intellectual property rights.

12 SEC. 51. Section 3822 of the Public Resources Code is  
13 amended to read:

14 3822. (a) Thirty percent of the revenues received and deposited  
15 in the Geothermal Resources Development Account shall be  
16 available for expenditure by the department as grants or loans to  
17 local jurisdictions or private entities without regard to fiscal years.  
18 These revenues shall be held by the department in the Local  
19 Government Geothermal Resources Revolving Subaccount, which  
20 is hereby created in the Geothermal Resources Development  
21 Account. Loan repayments shall be deposited in the subaccount  
22 and shall be used for making additional grants and loans pursuant  
23 to Section 3823.

24 (b) No local jurisdiction shall be eligible to apply for a grant or  
25 loan pursuant to this section unless its governing body approves  
26 the application by resolution.

27 (c) Each recipient of a grant or loan made pursuant to this section  
28 shall establish, for the deposit of the revenues, an account or fund  
29 that is separate from the other accounts and funds of the recipient,  
30 and may expend the revenues only for the purposes specified in  
31 this chapter.

32 (d) The department shall make grants and loans pursuant to this  
33 section irrespective of whether a local jurisdiction is a county of  
34 origin.

35 (e) Any of the revenues that are not disbursed as grants or loans  
36 pursuant to this section during the fiscal year received shall be  
37 retained in the subaccount and may be disbursed as grants or loans  
38 pursuant to this section in succeeding fiscal years.

39 (f) (1) Any loan made under this section shall:

40 (A) Not exceed 80 percent of the local jurisdiction's costs.

1 (B) Be repaid together with interest within 20 years from receipt  
2 of the loan funds.

3 (2) Notwithstanding any other provision of law, the department  
4 shall, unless it determines that the purposes of this chapter would  
5 be better served by establishing an alternative interest rate schedule,  
6 periodically set interest rates on the loans based on surveys of  
7 existing financial markets and at rates not lower than the Pooled  
8 Money Investment Account.

9 (g) Any loan or grant made to a private entity under this section  
10 shall (1) be matched with at least an equal investment by the  
11 recipient, (2) provide tangible benefits, as determined by the  
12 department, to a local jurisdiction, and (3) be approved by the city,  
13 county, or Indian reservation within which the project is to be  
14 located.

15 (h) The department may require an award repayment or program  
16 reimbursement agreement of any recipient of a grant or loan made  
17 pursuant to this section.

18 SEC. 52. Section 3822.1 of the Public Resources Code is  
19 amended to read:

20 3822.1. Notwithstanding any other provision of law,  
21 commencing with the 1984–85 fiscal year and in each fiscal year  
22 thereafter, any revenues not granted pursuant to Section 3822  
23 remaining in the Geothermal Resources Development Account  
24 and any revenues expected to be received and disbursed during  
25 the 1984–85 fiscal year and in each fiscal year thereafter shall be  
26 made a part of the Governor’s Budget. Projects approved by the  
27 department under this chapter shall be submitted for review and  
28 comment to the Department of Finance, the Legislative Analyst,  
29 and the Joint Legislative Budget Committee when the Legislature  
30 is in session. After a 30-day period, the department shall execute  
31 the funding agreements. The department shall submit to the  
32 Legislature by April 1 of each year, a list of projects, in priority  
33 order, selected and approved during the previous year.

34 SEC. 53. Section 3822.2 of the Public Resources Code is  
35 amended to read:

36 3822.2. (a) Notwithstanding any other provision of law, the  
37 department may expend funds, from that portion of the Geothermal  
38 Resources Development Account used by the department for grants  
39 and loans, to provide direct technical assistance to local

1 jurisdictions which are eligible for grants and loans pursuant to  
2 Section 3822.

3 (b) The total of all amounts expended pursuant to this section  
4 shall not exceed 5 percent of all funds available under Section  
5 3822 or one hundred thousand dollars (\$100,000), whichever  
6 amount is less.

7 (c) In making expenditures under this section, the department  
8 shall consider, but not be limited to a consideration of, all of the  
9 following:

10 (1) The availability of energy resource and technology  
11 opportunities.

12 (2) The project definition and likelihood of success.

13 (3) Local needs and potential project benefits.

14 SEC. 54. Section 4799.16 of the Public Resources Code is  
15 amended to read:

16 4799.16. The department shall coordinate its activities and  
17 cooperate with the Department of Energy in the development of  
18 surveys, studies, and research concerning the utilization of wood  
19 waste and forest growth for energy. The department shall also  
20 coordinate its activities with other public and private agencies to  
21 ensure that the activities of the department and those other agencies  
22 are not duplicative and the maximum benefit occurs from actions  
23 taken by the department to carry out its responsibilities pursuant  
24 to this chapter.

25 SEC. 55. Section 6815.2 of the Public Resources Code is  
26 amended to read:

27 6815.2. (a) Notwithstanding Section 6815.1, the commission  
28 may take any oil, gas, or other hydrocarbons taken in kind by it,  
29 pursuant to any lease or agreement, and exchange it, by competitive  
30 bidding, for refined products that shall be allocated to state agencies  
31 and to other public agencies, if the California Energy Board, after  
32 a public hearing, finds, in its judgment, that the retention and  
33 allocation is necessary to alleviate fuel shortage conditions or will  
34 effect a substantial cost saving to the state.

35 (b) The commission may make and enter into contracts or  
36 agreements for exchange of oil, gas, and other hydrocarbons taken  
37 in kind for finished products required for use by state and other  
38 public agencies. These contracts or agreements shall be entered  
39 into by competitive bids. The commission may reject all bids, if  
40 it determines that they are not in the public interest.

1 (c) The commission shall charge the state or other public  
2 agencies allocated refined products the current market price of  
3 these products including all applicable taxes. This price shall not  
4 be less than the value of the oil, gas, or other hydrocarbons that  
5 would have been received by the state if not taken in kind. The  
6 revenue shall be subject to the terms and conditions enumerated  
7 in Section 6217. The taxes generated by these sales shall be  
8 distributed according to applicable provisions of the Revenue and  
9 Taxation Code.

10 (d) The refined products obtained from exchange contracts or  
11 agreements entered into pursuant to this section shall be allocated  
12 to state agencies and to other public agencies in accordance with  
13 the regulations which shall be adopted, after a public hearing, by  
14 the Department of Energy.

15 (e) (1) Notwithstanding Section 6815.1, if the commission  
16 determines that it is in the best interests of the state, it may allow  
17 another state or public agency to take in kind oil, gas, or other  
18 hydrocarbons acquired by the commission.

19 (2) The commission shall charge the state or other public  
20 agencies allocated in kind oil, gas, or other hydrocarbons the  
21 current market price of these products, including all applicable  
22 taxes. This price shall not be less than the value of the oil, gas, or  
23 other hydrocarbons that would have been received by the state if  
24 not taken in kind. The commission may also charge for any  
25 transportation, treatment, or other costs associated with taking the  
26 in kind royalty. The revenue shall be subject to the terms and  
27 conditions enumerated in Section 6217. The taxes generated by  
28 these sales shall be distributed according to applicable provisions  
29 of the Revenue and Taxation Code.

30 SEC. 56. Section 14584 of the Public Resources Code is  
31 amended to read:

32 14584. (a) Operators of reverse vending machines or  
33 processors may apply to the California Pollution Control Financing  
34 Authority for financing pursuant to Section 44526 of the Health  
35 and Safety Code, as a means of obtaining capital for establishment  
36 of a convenience network. For purposes of Section 44508 of the  
37 Health and Safety Code, “project” includes the establishing of a  
38 recycling location pursuant to the division.

39 (b) Corporations, companies, or individuals may apply for loan  
40 and grant funds from the Energy Technologies Research,

1 Development, and Demonstration Account specified in Section  
2 25683 by applying to the Department of Energy for the purpose  
3 of demonstrating equipment for enhancing recycling opportunities.

4 SEC. 57. Section 25000.1 of the Public Resources Code is  
5 amended to read:

6 25000.1. (a) The Legislature further finds and declares that,  
7 in addition to their other ratepayer protection objectives, a principal  
8 goal of electric and natural gas utilities' resource planning and  
9 investment shall be to minimize the cost to society of the reliable  
10 energy services that are provided by natural gas and electricity,  
11 and to improve the environment and to encourage the diversity of  
12 energy sources through improvements in energy efficiency and  
13 development of renewable energy resources, such as wind, solar,  
14 and geothermal energy.

15 (b) The Legislature further finds and declares that, in addition  
16 to any appropriate investments in energy production, electrical  
17 and natural gas utilities should seek to exploit all practicable and  
18 cost-effective conservation and improvements in the efficiency of  
19 energy use and distribution that offer equivalent or better system  
20 reliability, and which are not being exploited by any other entity.

21 (c) In calculating the cost effectiveness of energy resources,  
22 including conservation and load management options, the  
23 department shall include a value for any costs and benefits to the  
24 environment, including air quality. The department shall ensure  
25 that any values it develops pursuant to this section are consistent  
26 with values developed by the Public Utilities Commission pursuant  
27 to Section 701.1 of the Public Utilities Code. However, if the  
28 department determines that a value developed pursuant to this  
29 subdivision is not consistent with a value developed by the Public  
30 Utilities Commission pursuant to subdivision (c) of Section 701.1  
31 of the Public Utilities Code, the department may nonetheless use  
32 this value if, in the appropriate record of its proceedings, it states  
33 its reasons for using the value it has selected.

34 SEC. 58. Section 25005.5 of the Public Resources Code is  
35 amended to read:

36 25005.5. The Legislature further finds and declares that  
37 information should be acquired and analyzed by the Department  
38 of Energy in order to ascertain future energy problems and  
39 uncertainties, including, but not limited to:

1 (a) The state’s role in production of oil from domestic reserves,  
2 especially within Petroleum Administration for Defense District  
3 V.

4 (b) The production of Alaskan North Slope oil and its projected  
5 use in the state.

6 (c) Plans of the federal government for development of oil in  
7 the Outer Continental Shelf adjacent to the state.

8 (d) Impacts of petroleum price increases and projected  
9 conservation measures on the demand for energy and indirect  
10 effects on the need for offshore oil development and Alaskan oil  
11 delivery into the state.

12 (e) Potential shipment of Alaskan oil through the state.

13 (f) Proposals for processing petroleum outside the state to supply  
14 the needs within the state.

15 (g) The impact on the state of national energy policies, including  
16 Project Independence.

17 SEC. 59. Section 25104 of the Public Resources Code is  
18 amended to read:

19 25104. “Commission” or “board” means the California Energy  
20 Board. References to the State Energy Resources Conservation  
21 and Development Commission or the California Energy  
22 Commission in other laws shall be to the California Energy Board.

23 SEC. 60. Section 25104.1 is added to the Public Resources  
24 Code, to read:

25 25104.1. (a) “Department” means the Department of Energy.

26 (b) “Office” means the Office of Energy Market Oversight.

27 SEC. 61. Section 25104.2 is added to the Public Resources  
28 Code, to read:

29 25104.2. “Secretary” means the Secretary of Energy.

30 SEC. 62. Section 25106 of the Public Resources Code is  
31 amended to read:

32 25106. “Adviser” means the public adviser employed by the  
33 department pursuant to Section 25217.1.

34 SEC. 63. The heading of Chapter 3 (commencing with Section  
35 25200) of Division 15 of the Public Resources Code is amended  
36 to read:

37  
38  
39

CHAPTER 3. DEPARTMENT OF ENERGY

1 SEC. 64. Section 25200 of the Public Resources Code is  
2 repealed.

3 SEC. 65. Section 25200 is added to the Public Resources Code,  
4 to read:

5 25200. (a) The Department of Energy is hereby created in  
6 state government to be headed by the Secretary of Energy who  
7 shall be appointed by the Governor, subject to Senate confirmation,  
8 and who shall hold office at the pleasure of the Governor. The  
9 Governor shall appoint the initial secretary by January 31, 2011.

10 (b) The Secretary of Energy shall serve as the principal adviser  
11 to the Governor on, and shall assist the Governor in establishing,  
12 major policy and program matters on electric power and other  
13 sources of energy as related to renewable energy, energy  
14 conservation, environmental protection, and other goals and  
15 policies established by this division.

16 (c) The Secretary of Energy shall have the power of a head of  
17 a department pursuant to Chapter 2 (commencing with Section  
18 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

19 (d) The Governor may appoint an Assistant Secretary of Energy  
20 who shall serve at the pleasure of the Governor.

21 (e) Consistent with the powers set forth in Chapter 2  
22 (commencing with Section 12850) of Part 2.5 of Division 3 of  
23 Title 2 of the Government Code, the Secretary of Energy shall  
24 organize the department, with the approval of the Governor, in the  
25 manner he or she deems necessary to properly conduct the  
26 operations of the department. Notwithstanding Sections 11042,  
27 11043, and 11157 of the Government Code, the secretary may  
28 employ legal counsel who shall represent the department and the  
29 board in connection with legal matters and litigation before any  
30 boards, agencies, or courts of the state or federal government.

31 (f) The department shall be responsible for the planning,  
32 development, and implementation of all major aspects of the state  
33 energy policy, including electricity.

34 (g) On or before April 1, 2011, the Secretary of Energy shall  
35 submit to the Legislature a proposal to recodify statutory provisions  
36 related to the department, and any other appropriate provisions,  
37 into an Energy Code.

38 SEC. 66. Section 25201 of the Public Resources Code is  
39 repealed.

1 SEC. 67. Section 25201 is added to the Public Resources Code,  
2 to read:

3 25201. (a) The Department of Energy hereby succeeds to, and  
4 is vested with, all the powers, duties, responsibilities, obligations,  
5 liabilities, jurisdiction, and rights and privileges of the following  
6 agencies, which shall no longer exist, and shall be known as  
7 predecessor entities:

8 (1) The State Energy Resources Conservation and Development  
9 Commission, some of whose former functions shall be  
10 administrated by the California Energy Board within the  
11 department as provided by law or directly by the Secretary of  
12 Energy.

13 (2) Electricity Oversight Board.

14 (b) Any reference in any law, regulation, or guideline to any of  
15 the predecessor entities listed in subdivision (a) shall be deemed  
16 to refer to the Department of Energy or the California Energy  
17 Board, as appropriate, unless the context requires otherwise.

18 SEC. 68. Section 25202 of the Public Resources Code is  
19 repealed.

20 SEC. 69. Section 25202 is added to the Public Resources Code,  
21 to read:

22 25202. In addition to the powers, duties, responsibilities,  
23 jurisdiction, and rights and privileges specified in Section 25201,  
24 the Department of Energy hereby succeeds to, and is vested with,  
25 all the powers, duties, responsibilities, obligations, liabilities,  
26 jurisdiction, and rights and privileges of all of the following:

27 (a) The California Energy Extension Service of the Office of  
28 Planning and Research.

29 (b) All functions of the Energy Assessment Program or its  
30 successor entity within the Department of General Services.

31 (c) All functions of the Energy Services Programs or their  
32 successor entities in the Office of the State Architect within the  
33 Department of General Services.

34 SEC. 70. Section 25203 of the Public Resources Code is  
35 repealed.

36 SEC. 71. Section 25203 is added to the Public Resources Code,  
37 to read:

38 25203. (a) There is, in the state government, the California  
39 Energy Board, which is hereby created within the Department of  
40 Energy.

1 (b) The board shall consist of all of the following:

2 (1) The Secretary of Energy, who shall serve as the chair of the  
3 board.

4 (2) Four public members with one member meeting each of the  
5 following requirements:

6 (A) A person having a background in the field of engineering  
7 or physical science with knowledge in energy supply or conversion  
8 systems.

9 (B) A member of the State Bar of California with administrative  
10 law experience.

11 (C) A person having a background in environmental protection  
12 or the study of ecosystems.

13 (D) An economist with background and experience in the field  
14 of natural resource management.

15 (3) The President of the California Public Utilities Commission.

16 (4) The Secretary of the Natural Resources Agency.

17 (c) The President of the California Public Utilities Commission  
18 and the Secretary of the Natural Resources Agency shall serve as  
19 ex officio, nonvoting members of the board, whose presence shall  
20 not be counted for a quorum or for vote requirements.

21 (d) (1) The Governor shall appoint the public members of the  
22 board, subject to confirmation by the Senate, for a term of four  
23 years. The public members shall serve staggered terms.

24 (2) A vacancy shall be filled by the Governor within 30 days  
25 of the date on which a vacancy occurs for the unexpired portion  
26 of the term in which it occurs or for any new term of office. If the  
27 Governor fails to make an appointment for a vacancy within the  
28 30-day period, the Senate Committee on Rules may make the  
29 appointment to fill the vacancy for the unexpired portion of the  
30 term in which the vacancy occurred or for any new term of office.

31 (3) Every appointment made by the Governor to the board shall  
32 be subject to the advice and consent of a majority of the members  
33 elected to the Senate.

34 (4) The terms of office of the public members of the board shall  
35 be for four years. Any vacancy shall be filled by the Governor  
36 within 30 days of the date on which a vacancy occurs for the  
37 unexpired portion of the term in which it occurs or for any new  
38 term of office.

39 (5) Members of the predecessor State Energy Resources  
40 Conservation and Development Commission having the

1 qualification specified in paragraph (2) of subdivision (b) shall  
2 continue to serve as public members of the board for the remainder  
3 of the terms they were appointed to serve on the predecessor  
4 commission.

5 (e) Each member of the board shall represent the state at large  
6 and not any particular area thereof, and shall serve on a full-time  
7 basis.

8 (f) The secretary may name a designee who may act in the place  
9 of the secretary in hearing any matter before the board, except on  
10 any matter for which the secretary determines he or she may have  
11 a conflict of interest in hearing a case. The participation of the  
12 designee will count for quorum and voting purposes.

13 (g) The board hereby succeeds to, and is vested with, all powers,  
14 duties, obligations, liabilities, responsibilities, jurisdiction, and  
15 rights and privileges of the predecessor State Energy Resources  
16 Conservation and Development Commission set forth in Chapter  
17 6 (commencing with Section 25500).

18 (h) Meetings of the board shall be open to the public and shall  
19 be conducted in accordance with the Bagley-Keene Open Meeting  
20 Act (Article 9 (commencing with Section 11120) of Chapter 1 of  
21 Part 1 of Division 3 of Title 2 of the Government Code).

22 (i) The secretary may delegate to the board any duty of the  
23 secretary if the secretary determines that doing so would not  
24 conflict with other responsibilities of the board and that utilizing  
25 the procedures of the board would serve the public interest.

26 (j) For purposes of this chapter, "board" means the California  
27 Energy Board.

28 SEC. 72. Section 25204 of the Public Resources Code is  
29 repealed.

30 SEC. 73. Section 25204 is added to the Public Resources Code,  
31 to read:

32 25204. (a) All regulations, orders, and guidelines adopted by  
33 an entity listed in subdivision (a) of Section 25201 or an entity  
34 listed in Section 25202 with regard to functions of that entity  
35 described in that section, and any of their predecessors in effect  
36 on or before January 1, 2011, shall remain in effect with respect  
37 to the programs and functions for which they were adopted, and  
38 shall be fully enforceable unless and until readopted, amended, or  
39 repealed, or until they expire by their own terms. All proceedings  
40 pending before an entity listed in subdivision (a) of Section 25201

1 or an entity listed in Section 25202 shall not abate but continue as  
2 proceedings before the department or commission, as appropriate.

3 (b) Except as otherwise specified, a statute, law, rule, or  
4 guideline now in force, or that may hereafter be enacted or adopted  
5 that references an entity listed in subdivision (a) of Section 25201,  
6 or an entity listed in Section 25202 with regard to functions of that  
7 entity described in that section, or any of their predecessors shall  
8 mean the Department of Energy.

9 (c) An action by or against the entities listed in subdivision (a)  
10 of Section 25201 or Section 25202, or any of their predecessors  
11 shall not abate but, except as provided in Section 25227.3, shall  
12 continue in the name of the Department of Energy and the  
13 department shall be substituted for the entities and any of their  
14 predecessors by the court where the action is pending. The  
15 substitution shall not in any way affect the rights of the parties to  
16 the action.

17 SEC. 74. Section 25205 of the Public Resources Code is  
18 amended to read:

19 25205. (a) A person shall not be a member of the board who,  
20 during the two years prior to appointment on the board, received  
21 any substantial portion of his or her income directly or indirectly  
22 from any electric utility, or who engages in sale or manufacture  
23 of any major component of any facility subject to licensing by the  
24 board. A member of the board shall not be employed by any  
25 electric utility, applicant, or, within two years after he or she ceases  
26 to be a member of the commission, by any person who engages  
27 in the sale or manufacture of any major component of any facility  
28 subject to licensing by the board.

29 (b) Except as provided in Section 25202, the members of the  
30 board shall not hold any other elected or appointed public office  
31 or position.

32 (c) The members of the board and all employees of the  
33 department shall comply with all applicable provisions of Section  
34 19251 of the Government Code.

35 (d) A person who is a member of the board or employee of the  
36 department shall not participate personally and substantially as a  
37 member of the board or employee of the department, through  
38 decision, approval, disapproval, recommendation, the rendering  
39 of advice, investigation, or otherwise, in a judicial or other  
40 proceeding, hearing, application, request for a ruling, or other

1 determination, contract, claim, controversy, study, plan, or other  
2 particular matter in which, to his or her knowledge, he or she, his  
3 or her spouse, minor child, or partner, or any organization, except  
4 a governmental agency or educational or research institution  
5 qualifying as a nonprofit organization under state or federal income  
6 tax law, in which he or she is serving, or has served as, officer,  
7 director, trustee, partner, or employee while serving as a member  
8 of the board or employee of the department or within two years  
9 prior to his or her appointment as a member of the board, has a  
10 direct or indirect financial interest.

11 (e) A person who is a partner, employer, or employee of a  
12 member of the board or employee of the department shall not act  
13 as an attorney, agent, or employee for any person other than the  
14 state in connection with any judicial or other proceeding, hearing,  
15 application, request for a ruling, or other determination, contract,  
16 claim, controversy, study, plan, or other particular matter in which  
17 the board or department is a party or has a direct and substantial  
18 interest.

19 (f) This section shall not apply if the Attorney General finds  
20 that the interest of the member of the board or employee of the  
21 department is not so substantial as to be deemed likely to affect  
22 the integrity of the services which the state may expect from the  
23 member or employee.

24 (g) Any person who violates this section is guilty of a felony  
25 and shall be subject to a fine of not more than ten thousand dollars  
26 (\$10,000) or imprisonment in the state prison, or both.

27 (h) The amendment of subdivision (d) of this section enacted  
28 by the 1975–76 Regular Session of the Legislature does not  
29 constitute a change in, but is declaratory of, existing law.

30 SEC. 75. Section 25205.5 is added to the Public Resources  
31 Code, to read:

32 25205.5. A contract, grant, loan, lease, license, bond, or any  
33 other agreement to which an entity listed in subdivision (a) of  
34 Section 25201, or an entity listed in Section 25202 with regard to  
35 functions of that entity described in that section, or any of their  
36 predecessors are a party shall not be void or voidable by reason  
37 of this act, but shall continue in full force and effect, with the  
38 Department of Energy assuming all the rights, obligations,  
39 liabilities, and duties of the entity and any of its predecessors. That  
40 assumption by the department shall not in any way affect the rights

1 of the parties to the contract, grant, loan, lease, license, or  
2 agreement. Bonds issued by or on behalf of the entity referred to  
3 in paragraph (1) of subdivision (a) of Section 25201 or the entities  
4 referred to in Section 25202 with regard to the functions transferred  
5 to the department, or issued by or on behalf of any of the  
6 predecessors, on or before January 1, 2011, shall become the  
7 indebtedness of the department. Any ongoing obligations or  
8 responsibilities of the entity or any of its predecessors for managing  
9 and maintaining bond issuances shall be transferred to the newly  
10 created entity without impairment to any security contained in the  
11 bond instrument.

12 SEC. 76. Section 25206 of the Public Resources Code is  
13 repealed.

14 SEC. 77. Section 25206 is added to the Public Resources Code,  
15 to read:

16 25206. On and after January 1, 2011, the unexpended balance  
17 of all funds available for use by the entities listed in subdivision  
18 (a) of Section 25201, or the entities listed in Section 25202 for the  
19 performance of functions of these entities described in that section,  
20 or any of their predecessors in carrying out a function transferred  
21 to the Department of Energy shall be available for use by the  
22 department. Unexpended balances shall be utilized consistent with  
23 the purposes for which they were appropriated. All books,  
24 documents, records, and property of the entities shall be transferred  
25 to the department.

26 SEC. 78. Section 25207 of the Public Resources Code is  
27 amended to read:

28 25207. The secretary and the public members of the board shall  
29 receive the salary provided for by Chapter 6 (commencing with  
30 Section 11550) of Part 1 of Division 3 of Title 2 of the Government  
31 Code.

32 Each member of the board shall receive the necessary traveling  
33 and other expenses incurred in the performance of his or her official  
34 duties. When necessary, the members of the board and the  
35 employees of the department may travel within or without the  
36 state.

37 SEC. 79. Section 25207.5 is added to the Public Resources  
38 Code, to read:

39 25207.5. (a) An officer or employee of the entities listed in  
40 subdivision (a) of Section 25201 or Section 25202 who is

1 performing a function transferred to the Department of Energy  
2 and who is serving in the state civil service, other than as a  
3 temporary employee, shall be transferred to the department. The  
4 status, position, and rights of an officer or employee of the entities  
5 shall not be affected by the transfer and shall be retained by the  
6 person as an officer or employee of the department, as the case  
7 may be, pursuant to the State Civil Service Act (Part 2  
8 (commencing with Section 18500) of Division 5 of Title 2 of the  
9 Government Code), except as to a position that is exempt from  
10 civil service.

11 (b) The Department of Energy shall have possession and control  
12 of all records, pages, offices, equipment, supplies, moneys, funds,  
13 appropriations, licenses, permits, agreements, contracts, claims,  
14 judgments, land, and other property, real or personal, connected  
15 with the administration of, or held for, the benefit or use of the  
16 entities listed in subdivision (a) of Section 25201 or for the  
17 performance of the functions listed in Section 25202.

18 SEC. 79.5. Section 25208 is added to the Public Resources  
19 Code, to read:

20 25208. (a) The department, in consultation with the Public  
21 Utilities Commission and the Independent System Operator, shall  
22 prepare, and submit to the Governor and the Legislature on or  
23 before January 1, 2012, a report that identifies administrative and  
24 statutory measures that, preserving environmental protections,  
25 public participation, and continuity of existing electric transmission  
26 line siting processes, would improve the siting and licensing  
27 process for electric transmission lines. The report shall include,  
28 but is not limited to, all of the following:

29 (1) An evaluation and recommendation on whether process  
30 efficiencies or cost-efficiencies could be achieved if transmission  
31 siting was transferred to the Department of Energy.

32 (2) A review of the impacts on both process efficiency and  
33 public participation of restrictions on communications between  
34 applicants, the public, and staff or decisionmakers.

35 (3) An assessment of the means for improving coordination  
36 with the ~~licensing~~ *permitting* activities of local jurisdictions and  
37 participation by other state agencies.

38 (4) An assessment of organizational structure issues including  
39 the adequacy of the amounts and organization of current technical  
40 and legal resources.

1 (5) Recommendations for administrative and statutory measures  
2 to improve the siting and licensing process, including  
3 recommendations for the option of siting transmission lines not  
4 owned by an electrical corporation.

5 (6) Recommendations for administering existing electric  
6 transmission siting applications to ensure continuity and  
7 efficiencies if the report recommends transferring the transmission  
8 siting authority to the Department of Energy.

9 (7) *An examination of the inefficiencies and duplication in the*  
10 *existing planning process and recommendations to address these*  
11 *issues, including the duplicative needs determinations by the Public*  
12 *Utilities Commission and the Independent System Operator.*

13 (8) *An examination of recent actions by the Public Utilities*  
14 *Commission to improve the transmission siting process as well as*  
15 *its performance in siting electric transmission projects.*

16 (b) (1) A report to be submitted pursuant to subdivision (a)  
17 shall be submitted in compliance with Section 9795 of the  
18 Government Code.

19 (2) Pursuant to Section 10231.5 of the Government Code, this  
20 section is repealed on January 1, 2016.

21 SEC. 80. Section 25209 of the Public Resources Code is  
22 amended to read:

23 25209. Each member of the board shall have one vote. Except  
24 as provided in Section 25211, the affirmative votes of at least three  
25 members shall be required for the transaction of any business of  
26 the board.

27 SEC. 81. Section 25210 of the Public Resources Code is  
28 amended to read:

29 25210. The board may hold any hearings and conduct any  
30 investigations in any part of the state necessary to carry out its  
31 powers and duties prescribed by this division and, for those  
32 purposes, has the same powers as are conferred upon heads of  
33 departments of the state by Article 2 (commencing with Section  
34 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the  
35 Government Code.

36 SEC. 82. Section 25211 of the Public Resources Code is  
37 amended to read:

38 25211. The board may appoint a committee of not less than  
39 two members of the board to carry on investigations, inquiries, or  
40 hearings that the board has power to undertake or to hold. At least

1 one member of the board shall attend all public hearings or other  
2 proceedings held pursuant to Chapter 6 (commencing with Section  
3 25500), and all public hearings in biennial report proceedings and  
4 rulemaking proceedings, except that, upon agreement of all parties  
5 to a proceeding who are present at the hearing or proceeding, the  
6 committee may authorize a hearing officer to continue to take  
7 evidence in the temporary absence of a board member. Every order  
8 made by the committee pursuant to the inquiry, investigation, or  
9 hearing, when approved or confirmed by the board and ordered  
10 filed in its office, shall be the order of the board.

11 SEC. 83. Section 25212 of the Public Resources Code is  
12 amended to read:

13 25212. Every two years the Governor shall designate a vice  
14 chairperson of the board from among its members.

15 SEC. 84. Section 25213 of the Public Resources Code is  
16 amended to read:

17 25213. The department and board shall adopt rules and  
18 regulations, as necessary, to carry out the provisions of this division  
19 in conformity with the provisions of Chapter 3.5 (commencing  
20 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
21 Government Code. The department and the board shall make  
22 available to any person upon request copies of proposed  
23 regulations, together with summaries of reasons supporting their  
24 adoption.

25 SEC. 85. Section 25214 of the Public Resources Code is  
26 amended to read:

27 25214. The department and the board shall maintain their  
28 headquarters in the County of Sacramento. The board shall hold  
29 meetings at times and places as shall be determined by it. All  
30 meetings and hearings of the board shall be open to the public,  
31 and opportunity to be heard with respect to the subject of the  
32 hearings shall be afforded to any person. Upon request, an  
33 interested party may be granted reasonable opportunity to examine  
34 any witness testifying at the hearing.

35 SEC. 86. Section 25215 of the Public Resources Code is  
36 amended to read:

37 25215. A public member of the board, as described in  
38 paragraph (2) of subdivision (b) of Section 25203, may be removed  
39 from office by the Legislature, by concurrent resolution adopted

1 by a majority vote of all members elected to each house, for  
2 dereliction of duty or corruption or incompetency.

3 SEC. 87. Section 25216 of the Public Resources Code is  
4 amended to read:

5 25216. In addition to other duties specified in this division, the  
6 department shall do all of the following:

7 (a) Undertake a continuing assessment of trends in the  
8 consumption of electrical energy and other forms of energy and  
9 analyze the social, economic, and environmental consequences of  
10 these trends; carry out directly, or cause to be carried out, energy  
11 conservation measures specified in Chapter 5 (commencing with  
12 Section 25400) of this division; and recommend to the Governor  
13 and the Legislature new and expanded energy conservation  
14 measures as required to meet the objectives of this division.

15 (b) Collect from electric utilities, gas utilities, and fuel producers  
16 and wholesalers and other sources forecasts of future supplies and  
17 consumption of all forms of energy, including electricity, and of  
18 future energy or fuel production and transporting facilities to be  
19 constructed; independently analyze those forecasts in relation to  
20 statewide estimates of population, economic, and other growth  
21 factors and in terms of the availability of energy resources, costs  
22 to consumers, and other factors; and formally specify statewide  
23 and service area electrical energy demands to be utilized as a basis  
24 for planning the siting and design of electric power generating and  
25 related facilities.

26 (c) Carry out, or cause to be carried out, under contract or other  
27 arrangements, research and development into alternative sources  
28 of energy, improvements in energy generation, transmission, and  
29 siting, fuel substitution, and other topics related to energy supply,  
30 demand, public safety, ecology, and conservation which are of  
31 particular statewide importance.

32 SEC. 88. Section 25216.3 of the Public Resources Code is  
33 amended to read:

34 25216.3. (a) The department shall compile relevant local,  
35 regional, state, and federal land use, public safety, environmental,  
36 and other standards to be met in designing, siting, and operating  
37 facilities in this state; except as provided in subdivision (d) of  
38 Section 25402, adopt standards, except for air and water quality,  
39 to be met in designing or operating facilities to safeguard public  
40 health and safety, which may be different from or more stringent

1 than those adopted by local, regional, or other state agencies, or  
2 by any federal agency if permitted by federal law; and monitor  
3 compliance and ensure that all facilities are operated in accordance  
4 with this division.

5 (b) The local, regional, and other state agencies shall advise the  
6 department as to any change in its standards, ordinances, or laws  
7 which are pertinent and relevant to the objective of carrying out  
8 the provisions of this division.

9 SEC. 89. Section 25216.5 of the Public Resources Code is  
10 amended to read:

11 25216.5. The department shall do all of the following:

12 (a) Prescribe the form and content of applications for facilities;  
13 conduct public hearings and take other actions to secure adequate  
14 evaluation of applications; and formally act to approve or  
15 disapprove applications, including specifying conditions under  
16 which approval and continuing operation of any facility shall be  
17 permitted.

18 (b) Prepare an integrated plan specifying actions to be taken in  
19 the event of an impending serious shortage of energy, or a clear  
20 threat to public health, safety, or welfare.

21 (c) Evaluate policies governing the establishment of rates for  
22 electric power and other sources of energy as related to energy  
23 conservation, environmental protection, and other goals and  
24 policies established in this division, and transmit recommendations  
25 for changes in power-pricing policies and rate schedules to the  
26 Governor, the Legislature, to the Public Utilities Commission, and  
27 to publicly owned electric utilities.

28 (d) Serve as a central repository within the state government  
29 for the collection, storage, retrieval, and dissemination of data and  
30 information on all forms of energy supply, demand, conservation,  
31 public safety, research, and related subjects. The data and  
32 information shall be derived from all sources, including, but not  
33 be limited to, electric and gas utilities, oil and other energy  
34 producing companies, institutions of higher education, private  
35 industry, public and private research laboratories, private  
36 individuals, and from any other source that the department  
37 determines is necessary to carry out its objectives under this  
38 division. The department may charge and collect a reasonable fee  
39 for retrieving and disseminating any information to cover the cost  
40 of that service. Any funds received by the department pursuant to

1 this subdivision shall be deposited in the account and are  
2 continuously appropriated for expenditure, by the department, for  
3 purposes of retrieving and disseminating any such information  
4 pursuant to this section.

5 SEC. 90. Section 25217 of the Public Resources Code is  
6 repealed.

7 SEC. 91. Section 25217.1 of the Public Resources Code is  
8 amended to read:

9 25217.1. The board shall nominate and the Governor shall  
10 appoint for a term of three years a public adviser to the board who  
11 shall be an attorney admitted to the practice of law in this state  
12 and who shall carry out the provisions of Section 25222 as well  
13 as other duties prescribed by this division or by the board. The  
14 adviser may be removed from office only upon the joint  
15 concurrence of four board members and the Governor.

16 SEC. 92. Section 25217.5 of the Public Resources Code is  
17 repealed.

18 SEC. 93. Section 25218 of the Public Resources Code is  
19 amended to read:

20 25218. In addition to other powers specified in this division,  
21 the department may do any of the following:

22 (a) Apply for and accept grants, contributions, and  
23 appropriations, and award grants consistent with the goals and  
24 objectives of a program or activity the commission is authorized  
25 to implement or administer.

26 (b) Contract for professional services if the work or services  
27 cannot be satisfactorily performed by its employees or by any other  
28 state agency.

29 (c) Be sued and sue.

30 (d) Request and utilize the advice and services of all federal,  
31 state, local, and regional agencies.

32 (e) Adopt any rule or regulation, or take any action, it deems  
33 reasonable and necessary to carry out this division except those  
34 responsibilities expressly vested in the board.

35 (f) Adopt rules and regulations, or take any action, it deems  
36 reasonable and necessary to ensure the free and open participation  
37 of any member of the staff in proceedings before the department.

38 SEC. 94. Section 25218.5 of the Public Resources Code is  
39 amended to read:

1 25218.5. The provisions specifying any power or duty of the  
2 department or the board shall be liberally construed, in order to  
3 carry out the objectives of this division.

4 SEC. 95. Section 25219 is added to the Public Resources Code,  
5 to read:

6 25219. The department shall create a legal subcommittee in  
7 order to collaborate and cooperate in developing a single statewide  
8 position on litigation concerning energy matters within the state.  
9 The subcommittee shall be comprised of:

10 (a) The secretary, or the department's legal counsel if one has  
11 been employed pursuant to subdivision (e) of Section 25200.

12 (b) The Deputy Secretary of the Office of Energy Market  
13 Oversight pursuant to Section 25228.4.

14 (c) The Attorney General.

15 (d) The President of the California Public Utilities Commission.

16 SEC. 96. Section 25220 of the Public Resources Code is  
17 amended to read:

18 25220. (a) As to any matter involving the federal government,  
19 or departments or agencies, that is within the scope of the power  
20 and duties of the department, the department may represent its  
21 interest or the interest of any county, city, state agency, or public  
22 district upon its request, and to that end may correspond, confer,  
23 and cooperate with the federal government, or departments or  
24 agencies.

25 (b) The department may participate as a party, to the extent  
26 that it shall determine, in any proceeding before any federal or  
27 state agency having authority whatsoever to approve or disapprove  
28 any aspect of a proposed facility, receive notice from any applicant  
29 of all applications and pleadings filed subsequently by those  
30 applicants in any of those proceedings, and, by its request, receive  
31 copies of any of the subsequently filed applications and pleadings  
32 that it shall deem necessary.

33 SEC. 97. Section 25221 of the Public Resources Code is  
34 amended to read:

35 25221. Upon request of the department, the Attorney General  
36 shall represent the department and the state in litigation concerning  
37 affairs of the department, unless the Attorney General represents  
38 another state agency, in which case the department shall be  
39 authorized to employ other counsel.

1 SEC. 98. Section 25222 of the Public Resources Code is  
2 amended to read:

3 25222. The adviser shall ensure that full and adequate  
4 participation by all interested groups and the public at large is  
5 secured in the planning, site and facility certification, energy  
6 conservation, and emergency allocation procedures provided in  
7 this division. The adviser shall insure that timely and complete  
8 notice of board meetings and public hearings is disseminated to  
9 all interested groups and to the public at large. The adviser shall  
10 also advise those groups and the public as to effective ways of  
11 participating in the board's proceedings. The adviser shall  
12 recommend to the board additional measures to ensure open  
13 consideration and public participation in energy planning, site and  
14 facility certification, energy conservation, and emergency allocation  
15 proceedings.

16 SEC. 99. Section 25223 of the Public Resources Code is  
17 amended to read:

18 25223. (a) Except as provided in subdivision (b), the  
19 department and the board shall make available any information  
20 filed or submitted pursuant to this division under the provisions  
21 of the California Public Records Act, Chapter 3.5 (commencing  
22 with Section 6250) of Division 7, Title 1 of the Government Code.

23 (b) The department and the board shall keep confidential any  
24 information submitted to the Division of Oil and Gas of the  
25 Department of Conservation that the division determines, pursuant  
26 to Section 3752, to be proprietary.

27 SEC. 100. Section 25224 of the Public Resources Code is  
28 amended to read:

29 25224. The department, the board, and other state agencies  
30 shall, to the fullest extent possible, exchange records, reports,  
31 material, and other information relating to energy resources and  
32 conservation and power facilities siting, or any areas of mutual  
33 concern, to the end that unnecessary duplication of effort may be  
34 avoided.

35 SEC. 101. Section 25225 of the Public Resources Code is  
36 amended to read:

37 25225. (a) Prior to expending any funds for any research,  
38 development, or demonstration program or project relating to  
39 vehicles or vehicle fuels, the department, by action of the board,  
40 shall do both of the following, using existing resources:

1 (1) Adopt a plan describing any proposed expenditure that sets  
2 forth the expected costs and qualitative as well as quantitative  
3 benefits of the proposed program or project.

4 (2) Find that the proposed program or project will not duplicate  
5 any other past or present publicly funded California program or  
6 project. This paragraph is not intended to prevent funding for  
7 programs or projects jointly funded with another public agency  
8 where there is no duplication.

9 (b) Within 120 days from the date of the conclusion of a program  
10 or project subject to subdivision (a) that is funded by the  
11 department, the department shall issue a public report that sets  
12 forth the actual costs of the program or project, the results achieved  
13 and how they compare with expected costs and benefits determined  
14 pursuant to paragraph (1) of subdivision (a), and any problems  
15 that were encountered by the program or project.

16 (c) This section does not apply to any funds appropriated for  
17 research, development, or demonstration pursuant to a statute that  
18 expressly specifies both of the following:

19 (1) A vehicle technology or vehicle fuel which is the subject of  
20 the research, development, or demonstration.

21 (2) The purpose of, or anticipated products of, the research,  
22 development, or demonstration.

23 SEC. 102. Section 25226 of the Public Resources Code is  
24 amended to read:

25 25226. (a) The Energy Technologies Research, Development,  
26 and Demonstration Account established under former Section  
27 25683 is hereby continued in existence, in the General Fund, to  
28 be administered by the department for the purpose of carrying out  
29 Chapter 7.3 (commencing with Section 25630) and Chapter 7.5  
30 (commencing with Section 25650).

31 (b) The Controller shall deposit in the account all money  
32 appropriated to the account by the Legislature, plus accumulated  
33 interest on that money, and money from loan repayments, interest,  
34 and royalties pursuant to Sections 25630 and 25650, for use by  
35 the department, upon appropriation by the Legislature, for the  
36 purposes specified in Chapter 7.3 (commencing with Section  
37 25630) and Chapter 7.5 (commencing with Section 25650).

38 SEC. 103. Chapter 3.5 (commencing with Section 25227) is  
39 added to Division 15 of the Public Resources Code, to read:

CHAPTER 3.5. OFFICE OF ENERGY MARKET OVERSIGHT

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25227. (a) Any reference in the law to the “Electricity Oversight Board” or the “Office of Energy Market Oversight” shall mean the Secretary of Energy or the Department of Energy.

(b) The Office of Energy Market Oversight may exercise any right that exists in the name of the former Electricity Oversight Board and may pursue and continue to final resolution any claim or right that exists in the name of the Electricity Oversight Board. It may take an action in its own name, or may maintain it in the name of the former Electricity Oversight Board, as it determines will best preserve and protect the interests of the public in those rights or claims.

(c) An action initiated, joined, or pursued by the Office of Energy Market Oversight shall not be considered an action by any other office, division, or commission within the Department of Energy unless specifically stated in a pleading. The office shall maintain separation and procedures, as are necessary, to prevent any inappropriate sharing of personnel or flow of proprietary information between its market monitoring and investigation functions and any program or function within the department that has a market interest.

(d) Any pending litigation for which there could be a conflict if combined with another program reorganized under the Department of Energy, including, but not limited to, the Federal Energy Regulatory Commission dockets EL02-60 and EL02-62, and any related appeals or remands, shall be continued by the Office of Energy Market Oversight in the name of the Electricity Oversight Board and maintained separate from all other programs of the department. The office shall report on the resolution of those cases directly to the legal affairs office of the Governor.

(e) Other agencies that are parties to, or commenting agencies in, matters before the Federal Energy Regulatory Commission, on and after January 1, 2011, shall cooperate with the office to promote coordination of the state’s advocacy with respect to those matters.

25227.1. The following matters are subject to California’s exclusive jurisdiction:

(a) Selections by California of governing board members, as described in Section 345.1 of the Public Utilities Code.

- 1 (b) Matters pertaining to retail electric service or retail sales of  
2 electric energy.
- 3 (c) Ensuring that the purposes and functions of the Independent  
4 System Operator are consistent with the purposes and functions  
5 of California nonprofit public benefit corporations, including duties  
6 of care and conflict-of-interest standards for directors of the  
7 corporations.
- 8 (d) State functions assigned to the Independent System Operator  
9 under state law.
- 10 (e) Open meeting standards and meeting notice requirements.
- 11 (f) Appointment of advisory representatives representing state  
12 interests.
- 13 (g) Public access to corporate records.
- 14 (h) The amendment of bylaws relevant to these matters.
- 15 25227.2. The Office of Energy Market Oversight may do all  
16 of the following:
  - 17 (a) Investigate any matter related to the wholesale market for  
18 electricity to ensure that the interests of California's citizens and  
19 consumers are served, protected, and represented in relation to the  
20 availability of electric transmission and generation and related  
21 costs.
  - 22 (b) Appear in all relevant proceedings before the Federal Energy  
23 Regulatory Commission on behalf of California energy consumers  
24 and as the representative of the state's energy policy.
  - 25 (c) Accept appropriations, grants, or contributions from any  
26 public source, private foundation, or individual.
  - 27 (d) Sue and be sued.
  - 28 (e) Contract with state, local, or federal agencies for services  
29 or work required by the office under this chapter.
  - 30 (f) Contract for or employ any services or work, including expert  
31 witness and attorney services required by the office that in its  
32 opinion cannot satisfactorily be performed by its staff, by other  
33 subdivisions of the department, or by other state agencies.
  - 34 (g) Appoint advisory committees from members of other public  
35 agencies and private groups or individuals.
  - 36 (h) Hold hearings at the times and places it may deem proper.
  - 37 (i) Issue subpoenas to compel the production of books, records,  
38 papers, accounts, reports, and documents and the attendance of  
39 witnesses.
  - 40 (j) Administer oaths.

1 (k) Adopt or amend rules and regulations to carry out the  
2 purposes and provisions of this chapter.

3 (l) Exercise any authority consistent with this chapter delegated  
4 to it by a federal agency or authorized to it by federal law.

5 (m) Under the direction of the secretary, make recommendations  
6 to the Governor and the Legislature.

7 (n) Participate in proceedings relevant to the purposes of this  
8 chapter or to the purposes of Division 4.9 (commencing with  
9 Section 9600) of the Public Utilities Code or consistent with the  
10 policies of the department, and participate in activities to promote  
11 the formation of interstate agreements to enhance the reliability  
12 and function of the electricity system and the electricity market.

13 (o) Do any and all other things necessary to carry out the  
14 purposes of this chapter.

15 25228. (a) The Office of Energy Market Oversight may adopt  
16 rules or protective orders to protect the confidential status of market  
17 sensitive information.

18 (b) Information made confidential pursuant to a federally  
19 approved tariff that is obtained by the department or the office is  
20 confidential and prohibited from disclosure without the consent  
21 of the source of information except as required by a court order  
22 or other legal process.

23 25228.2. (a) Any remaining reference in any law to the duties,  
24 responsibilities, powers, and functions of the Electricity Oversight  
25 Board, which no longer exists, shall be considered a reference to  
26 the Secretary of Energy or the Department of Energy unless the  
27 context otherwise requires.

28 (b) All officers and employees of the Electricity Oversight Board  
29 who, on January 1, 2011, are serving in the state civil service, other  
30 than as temporary employees, shall be transferred to the  
31 Department of Energy pursuant to Section 19050.9 of the  
32 Government Code. The status, position, and rights of any officer  
33 or employee of the board shall not be affected by the transfer and  
34 shall be retained by the person as an officer or employee of the  
35 department, as the case may be, pursuant to the State Civil Service  
36 Act (Part 2 (commencing with Section 18500) of Division 5 of  
37 Title 2 of the Government Code), except as to a position that is  
38 exempt from civil service.

39 (c) As soon as practicable, the Secretary of Energy shall report  
40 to the Department of Finance on whether the resources transferred

1 to the department are sufficient to ensure that all of the state's  
2 interests can be adequately represented under subdivision (d) of  
3 Section 25227. The Department of Finance shall assess whether  
4 the consolidation of this function under the department allows the  
5 transfer of any resources previously used to support this function  
6 within any other agency to the department.

7 25228.4. The Governor may appoint, and fix the salary of, a  
8 deputy who shall have charge of administering the responsibilities  
9 of this chapter, subject to policies of the department.  
10 Notwithstanding Sections 11042 and 11043 of the Government  
11 Code, the secretary shall appoint an attorney who shall advise and  
12 represent the office and the People of the State of California as a  
13 party in any state or federal action, proceeding, or litigation related  
14 to the purposes of this chapter and who shall perform generally  
15 all the duties of an attorney with respect to the purposes of this  
16 chapter.

17 SEC. 104. Section 25301 of the Public Resources Code is  
18 amended to read:

19 25301. (a) At least every two years, the department shall  
20 conduct assessments and forecasts of all aspects of energy industry  
21 supply, production, transportation, delivery and distribution,  
22 demand, and prices. The department shall use these assessments  
23 and forecasts to develop energy policies that conserve resources,  
24 protect the environment, ensure energy reliability, enhance the  
25 state's economy, and protect public health and safety. To perform  
26 these assessments and forecasts, the department may require  
27 submission of demand forecasts, resource plans, market  
28 assessments, and related outlooks from electric and natural gas  
29 utilities, transportation fuel and technology suppliers, and other  
30 market participants. These assessments and forecasts shall be done  
31 in consultation with the Independent System Operator and the  
32 appropriate state and federal agencies, including, but not limited  
33 to, the Public Utilities Commission, the Division of Ratepayer  
34 Advocates, the State Air Resources Board, the Department of  
35 Water Resources, the State Department of Transportation, and the  
36 Department of Motor Vehicles.

37 (b) In developing the assessments and forecasts prepared  
38 pursuant to subdivision (a), the department shall do all of the  
39 following:

1 (1) Provide information about the performance of energy  
2 industries.

3 (2) Develop and maintain the analytical capability sufficient to  
4 answer inquiries about energy issues from government, market  
5 participants, and the public.

6 (3) Analyze and develop energy policies.

7 (4) Provide an analytical foundation for regulatory and policy  
8 decisionmaking.

9 (5) Facilitate efficient and reliable energy markets.

10 SEC. 105. Section 25302 of the Public Resources Code is  
11 amended to read:

12 25302. (a) Beginning November 1, 2003, and every two years  
13 thereafter, the board shall adopt an integrated energy policy report.  
14 This integrated report shall contain an overview of major energy  
15 trends and issues facing the state, including, but not limited to,  
16 supply, demand, pricing, reliability, efficiency, and impacts on  
17 public health and safety, the economy, resources, and the  
18 environment. Energy markets and systems shall be grouped and  
19 assessed in three subsidiary volumes:

20 (1) Electricity and natural gas markets.

21 (2) Transportation fuels, technologies, and infrastructure.

22 (3) Public interest energy strategies.

23 (b) The department shall compile the integrated energy policy  
24 report prepared pursuant to subdivision (a) by consolidating the  
25 analyses and findings of the subsidiary volumes in paragraphs (1),  
26 (2), and (3) of subdivision (a). The integrated energy policy report  
27 shall present policy recommendations based on an indepth and  
28 integrated analysis of the most current and pressing energy issues  
29 facing the state. The analyses supporting this integrated energy  
30 policy report shall explicitly address interfuel and intermarket  
31 effects to provide a more informed evaluation of potential tradeoffs  
32 when developing energy policy across different markets and  
33 systems.

34 (c) The integrated energy policy report shall include an  
35 assessment and forecast of system reliability and the need for  
36 resource additions, efficiency, and conservation that considers all  
37 aspects of energy industries and markets that are essential for the  
38 state economy, general welfare, public health and safety, energy  
39 diversity, and protection of the environment. This assessment shall  
40 be based on determinations made pursuant to this chapter.

1 (d) Beginning November 1, 2004, and every two years thereafter,  
2 the department shall prepare an energy policy review to update  
3 analyses from the integrated energy policy report prepared pursuant  
4 to subdivisions (a), (b), and (c), or to raise energy issues that have  
5 emerged since the release of the integrated energy policy report.  
6 The department may also periodically prepare and release technical  
7 analyses and assessments of energy issues and concerns to provide  
8 timely and relevant information for the Governor, the Legislature,  
9 market participants, and the public.

10 (e) In preparation of the report, the department shall consult  
11 with the following entities: the Public Utilities Commission, the  
12 Division of Ratepayer Advocates, the State Air Resources Board,  
13 the Independent System Operator, the Department of Water  
14 Resources, the State Department of Transportation, and the  
15 Department of Motor Vehicles, and any federal, state, and local  
16 agencies it deems necessary in preparation of the integrated energy  
17 policy report. To ensure collaborative development of state energy  
18 policies, these agencies shall make a good faith effort to provide  
19 data, assessment, and proposed recommendations for review by  
20 the department.

21 (f) The department shall provide the report to the Public Utilities  
22 Commission, the Division of Ratepayer Advocates, the State Air  
23 Resources Board, the Independent System Operator, the  
24 Department of Water Resources, and the Department of  
25 Transportation. For the purpose of ensuring consistency in the  
26 underlying information that forms the foundation of energy policies  
27 and decisions affecting the state, those entities shall carry out their  
28 energy-related duties and responsibilities based upon the  
29 information and analyses contained in the report. If an entity listed  
30 in this subdivision objects to information contained in the report,  
31 and has a reasonable basis for that objection, the entity shall not  
32 be required to consider that information in carrying out its  
33 energy-related duties.

34 (g) The department shall make the report accessible to state,  
35 local, and federal entities and to the general public.

36 SEC. 106. Section 25303 of the Public Resources Code is  
37 amended to read:

38 25303. (a) The department shall conduct electricity and natural  
39 gas forecasting and assessment activities to meet the requirements

1 of paragraph (1) of subdivision (a) of Section 25302, including,  
2 but not limited to, all of the following:

3 (1) Assessment of trends in electricity and natural gas supply  
4 and demand, and the outlook for wholesale and retail prices for  
5 commodity electricity and natural gas under current market  
6 structures and expected market conditions.

7 (2) Forecasts of statewide and regional electricity and natural  
8 gas demand including annual, seasonal, and peak demand, and the  
9 factors leading to projected demand growth, including, but not  
10 limited to, projected population growth, urban development,  
11 industrial expansion and energy intensity of industries, energy  
12 demand for different building types, energy efficiency, and other  
13 factors influencing demand for electricity. With respect to  
14 long-range forecasts of the demand for natural gas, the report shall  
15 include an evaluation of average conditions, as well as best and  
16 worst case scenarios, and an evaluation of the impact of the  
17 increasing use of renewable resources on natural gas demand.

18 (3) Evaluation of the adequacy of electricity and natural gas  
19 supplies to meet forecasted demand growth. Assessment of the  
20 availability, reliability, and efficiency of the electricity and natural  
21 gas infrastructure and systems, including, but not limited to, natural  
22 gas production capability both in and out of state, natural gas  
23 interstate and intrastate pipeline capacity, storage and use, and  
24 western regional and California electricity and transmission system  
25 capacity and use.

26 (4) Evaluation of potential impacts of electricity and natural gas  
27 supply, demand, and infrastructure and resource additions on the  
28 electricity and natural gas systems, public health and safety, the  
29 economy, resources, and the environment.

30 (5) Evaluation of the potential impacts of electricity and natural  
31 gas load management efforts, including end-user response to  
32 market price signals, as a means to ensure reliable operation of  
33 electricity and natural gas systems.

34 (6) Evaluation of whether electricity and natural gas markets  
35 are adequately meeting public interest objectives including the  
36 provision of all of the following: economic benefits; competitive,  
37 low-cost reliable services; customer information and protection;  
38 and environmentally sensitive electricity and natural gas supplies.  
39 This evaluation may consider the extent to which California is an  
40 element within western energy markets, the existence of appropriate

1 incentives for market participants to provide supplies and for  
2 consumers to respond to energy prices, appropriate identification  
3 of responsibilities of various market participants, and an assessment  
4 of long-term versus short-term market performance. To the extent  
5 this evaluation identifies market shortcomings, the department  
6 shall propose market structure changes to improve performance.

7 (7) Identification of impending or potential problems or  
8 uncertainties in the electricity and natural gas markets, potential  
9 options and solutions, and recommendations.

10 (8) (A) Compilation and assessment of existing scientific studies  
11 that have been performed by persons or entities with expertise and  
12 qualifications in the subject of the studies to determine the potential  
13 vulnerability to a major disruption due to aging or a major seismic  
14 event of large baseload generation facilities, of 1,700 megawatts  
15 or greater.

16 (B) The assessment specified in subparagraph (A) shall include  
17 an analysis of the impact of a major disruption on system reliability,  
18 public safety, and the economy.

19 (C) The department may work with other public entities and  
20 public agencies, including, but not limited to, the Public Utilities  
21 Commission, the Department of Conservation, and the Seismic  
22 Safety Commission as necessary, as well as the Independent  
23 System Operator, to gather and analyze the information required  
24 by this paragraph.

25 (D) Upon completion and publication of the initial review of  
26 the information required pursuant to this paragraph, the department  
27 shall perform subsequent updates as new data or new understanding  
28 of potential seismic hazards emerge.

29 (b) Commencing November 1, 2003, and every two years  
30 thereafter, to be included in the integrated energy policy report  
31 prepared pursuant to Section 25302, the department shall assess  
32 the current status of the following:

33 (1) The environmental performance of the electric generation  
34 facilities of the state, to include all of the following:

35 (A) Generation facility efficiency.

36 (B) Air emission control technologies in use in operating plants.

37 (C) The extent to which recent resource additions have, and  
38 expected resource additions are likely to, displace or reduce the  
39 operation of existing facilities, including the environmental  
40 consequences of these changes.

1 (2) The geographic distribution of statewide environmental,  
2 efficiency, and socioeconomic benefits and drawbacks of existing  
3 generation facilities, including, but not limited to, the impacts on  
4 natural resources including wildlife habitat, air quality, and water  
5 resources, and the relationship to demographic factors. The  
6 assessment shall describe the socioeconomic and demographic  
7 factors that existed when the facilities were constructed and the  
8 current status of these factors. In addition, the report shall include  
9 how expected or recent resource additions could change the  
10 assessment through displaced or reduced operation of existing  
11 facilities.

12 (c) In the absence of a long-term nuclear waste storage facility,  
13 the department shall assess the potential state and local costs and  
14 impacts associated with accumulating waste at California's nuclear  
15 powerplants. The department shall further assess other key policy  
16 and planning issues that will affect the future role of nuclear  
17 powerplants in the state.

18 SEC. 107. Section 25304 of the Public Resources Code is  
19 amended to read:

20 25304. The department shall conduct transportation forecasting  
21 and assessment activities to meet the requirements of paragraph  
22 (2) of subdivision (a) of Section 25302, including, but not limited  
23 to:

24 (a) Assessment of trends in transportation fuels, technologies,  
25 and infrastructure supply and demand and the outlook for wholesale  
26 and retail prices for petroleum, petroleum products, and alternative  
27 transportation fuels under current market structures and expected  
28 market conditions.

29 (b) Forecasts of statewide and regional transportation energy  
30 demand, both annual and seasonal, and the factors leading to  
31 projected demand growth, including, but not limited to, projected  
32 population growth, urban development, vehicle miles traveled, the  
33 type, class, and efficiency of personal vehicles and commercial  
34 fleets, and shifts in transportation modes.

35 (c) Evaluation of the sufficiency of transportation fuel supplies,  
36 technologies, and infrastructure to meet projected transportation  
37 demand growth. Assessment of crude oil and other transportation  
38 fuel feedstock supplies; in-state, national, and worldwide  
39 production and refining capacity; product output storage

1 availability; and transportation and distribution systems capacity  
2 and use.

3 (d) Assessments of the risks of supply disruptions, price shocks,  
4 or other events and the consequences of these events on the  
5 availability and price of transportation fuels and effects on the  
6 state's economy.

7 (e) Evaluation of the potential for needed changes in the state's  
8 energy shortage contingency plans to increase production and  
9 productivity, improve efficiency of fuel use, increase conservation  
10 of resources, and other actions to maintain sufficient, secure, and  
11 affordable transportation fuel supplies for the state.

12 (f) Evaluation of alternative transportation energy scenarios, in  
13 the context of least environmental and economic costs, to examine  
14 potential effects of alternative fuels usage, vehicle efficiency  
15 improvements, and shifts in transportation modes on public health  
16 and safety, the economy, resources, the environment, and energy  
17 security.

18 (g) Examination of the success of introduction, prices, and  
19 availability of advanced transportation technologies, low- or  
20 zero-emission vehicles, and clean-burning transportation fuels,  
21 including their potential future contributions to air quality, energy  
22 security, and other public interest benefits.

23 (h) Recommendations to improve the efficiency of transportation  
24 energy use, reduce dependence on petroleum fuels, decrease  
25 environmental impacts from transportation energy use, and  
26 contribute to reducing congestion, promoting economic  
27 development, and enhancing energy diversity and security.

28 SEC. 108. Section 25305 of the Public Resources Code is  
29 amended to read:

30 25305. The department shall rely upon forecasting and  
31 assessments performed in accordance with Sections 25301 to  
32 25304, inclusive, as the basis for analyzing the success of and  
33 developing policy recommendations for public interest energy  
34 strategies. Public interest energy strategies include, but are not  
35 limited to, achieving energy efficiency and energy conservation;  
36 implementing load management; pursuing research, development,  
37 demonstration, and commercialization of new technologies;  
38 promoting renewable generation technologies; reducing statewide  
39 greenhouse gas emissions and addressing the impacts of climate  
40 change on California; stimulating California's energy-related

1 business activities to contribute to the state's economy; and  
2 protecting and enhancing the environment. Additional assessments  
3 to address public interest energy strategies shall include, but are  
4 not limited to, all of the following:

5 (a) Identification of emerging trends in energy efficiency in the  
6 residential, commercial, industrial, agricultural, and transportation  
7 sectors of the state's economy, including, but not limited to,  
8 evaluation of additional achievable energy efficiency measures  
9 and technologies. Identification of policies that would permit fuller  
10 realization of the potential for energy efficiency, either through  
11 direct programmatic actions or facilitation of the market.

12 (b) Identification of emerging trends in the renewable energy  
13 industry. In addition, the department shall evaluate progress in  
14 ensuring the operation of existing facilities, and the development  
15 of new and emerging, in-state renewable resources.

16 (c) Identification of emerging trends in energy research,  
17 development, and demonstration activities that advance science  
18 or technology to produce public benefits.

19 (d) Identification of progress in reducing statewide greenhouse  
20 gas emissions and addressing the effects of climate change on  
21 California.

22 SEC. 109. Section 25305.5 of the Public Resources Code is  
23 amended to read:

24 25305.5. The department shall include in its report prepared  
25 pursuant to Sections 25301 to 25304, inclusive, a description of  
26 international energy market prospects and an evaluation of its  
27 export promotion activities, as well as an assessment of the state  
28 of the California energy technology and energy conservation  
29 industry's efforts to enter foreign markets. The report shall also  
30 include recommendations for state government initiatives to foster  
31 the California energy technology and energy conservation  
32 industry's competition in world markets.

33 SEC. 110. Section 25306 of the Public Resources Code is  
34 amended to read:

35 25306. The department shall conduct workshops, hearings,  
36 and other forums to gain the perspectives of the public and market  
37 participants for purposes of the integrated energy policy report  
38 prepared pursuant to Section 25302 and the forecasting and  
39 assessments prepared pursuant to Sections 25301, 25303, 25304,  
40 and 25305. The department shall include the comments, as well

1 as responses to those comments, of governmental agencies, industry  
2 representatives, market participants, private groups, and any other  
3 person concerning the department's proposals and  
4 recommendations in the docket for the integrated energy policy  
5 report.

6 SEC. 111. Section 25310 of the Public Resources Code is  
7 amended to read:

8 25310. On or before November 1, 2007, and by November 1  
9 of every third year thereafter, the department in consultation with  
10 the Public Utilities Commission and local publicly owned electric  
11 utilities, in a public process that allows input from other  
12 stakeholders, shall develop a statewide estimate of all potentially  
13 achievable cost-effective electricity and natural gas efficiency  
14 savings and establish targets for statewide annual energy efficiency  
15 savings and demand reduction for the next 10-year period. The  
16 department shall base its estimate at least in part on information  
17 developed pursuant to Sections 454.55, 454.56, 715, 9615, and  
18 9615.5 of the Public Utilities Code. The department shall, for each  
19 electrical corporation and each gas corporation, include in the  
20 integrated energy policy report, a comparison of the public utility's  
21 annual targets established pursuant to Sections 454.55 and 454.56,  
22 and the public utility's actual energy efficiency savings and demand  
23 reductions.

24 SEC. 112. Section 25320 of the Public Resources Code is  
25 amended to read:

26 25320. (a) The department shall manage a data collection  
27 system for obtaining information necessary to develop the policy  
28 reports and analyses required by Sections 25301 to 25307,  
29 inclusive, the energy shortage contingency planning efforts in  
30 Chapter 8 (commencing with Section 25700), and to support other  
31 duties of the department.

32 (b) The data collection system, adopted by regulation under  
33 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
34 3 of Title 2 of the Government Code, and managed by the  
35 department shall:

36 (1) Include a timetable for the submission of this information,  
37 so that the integrated energy policy report required by Section  
38 25302 can be completed in an accurate and timely manner.

39 (2) Require a person to submit only information that is  
40 reasonably relevant, and that the person can either be expected to

1 acquire through his or her market activities, or possesses or  
2 controls. Information collected pursuant to this section shall relate  
3 to the functional role of each category of market participant in that  
4 industry and the consumers within that industry.

5 (3) To the extent it satisfies the information needs of the  
6 department, rely on the use of estimates and proxies, to the  
7 maximum extent practicable, for some data elements using survey  
8 and research techniques, while for other information it shall obtain  
9 data from market participants using submissions consistent with  
10 their accounting records. In determining whether to rely upon  
11 estimates or participant-provided data, the department shall weigh  
12 the burden of compliance upon industry participants and energy  
13 consumers against the benefit of participant-provided data for the  
14 public interest.

15 (4) To the extent it satisfies the information needs of the  
16 department, rely on data, to the maximum extent practicable, that  
17 is reported to other government agencies or is otherwise available  
18 to the department.

19 (c) Pursuant to the requirements of subdivision (b), the data  
20 collection system for electricity and natural gas shall enumerate  
21 specific requirements for each category of market participants,  
22 including, but not limited to, private market participants, energy  
23 service providers, energy service companies, natural gas marketers,  
24 electric utility and natural gas utility companies, independent  
25 generators, electric transmission entities, natural gas producers,  
26 natural gas pipeline operators, importers and exporters of electricity  
27 and natural gas, and specialized electric or natural gas system  
28 operators. The department may also collect information about  
29 consumers' natural gas and electricity use from their voluntary  
30 participation in surveys and other research techniques.

31 (d) Pursuant to the requirements of subdivision (b), the data  
32 collection system for nonpetroleum fuels and transportation  
33 technologies shall enumerate specific requirements for each  
34 category of market participant, including, but not limited to, fuel  
35 importers and exporters, fuel distributors and retailers, fuel pipeline  
36 operators, natural gas liquid producers, and transportation  
37 technology providers. The department may also collect information  
38 about consumers' nonpetroleum fuel and transportation technology  
39 use from their voluntary participation in surveys and other research  
40 techniques.

1 (e) The department shall collect data for petroleum fuel pursuant  
2 to Chapter 4.5 (commencing with Section 25350). The department  
3 may also collect information about consumers' petroleum fuel use  
4 from consumers' participation in surveys and other research  
5 techniques.

6 SEC. 113. Section 25321 of the Public Resources Code is  
7 amended to read:

8 25321. In order to ensure timely and accurate compliance with  
9 the data collection system adopted under Section 25320, the  
10 department may use any of the following enforcement measures:

11 (a) If any person fails to comply with an applicable provision  
12 of the data collection system, the department shall notify the  
13 person. If, after five working days from being notified of the  
14 violation, the person continues to fail to comply, the person shall  
15 be subject to a civil penalty, to be imposed by the department after  
16 a hearing that complies with constitutional requirements.

17 (1) The civil penalty shall not be less than five hundred dollars  
18 (\$500) nor more than two thousand dollars (\$2,000) for each  
19 category of data the person did not provide and for each day the  
20 violation has existed and continues to exist.

21 (2) In the case of a person who willfully makes any false  
22 statement, representation, or certification in any record, report,  
23 plan, or other document filed with the department, the civil penalty  
24 shall not be less than five hundred dollars (\$500) nor more than  
25 two thousand dollars (\$2,000) per day applied to each day in the  
26 interval between the original due date and the date when corrected  
27 information is submitted.

28 (b) For the purposes of this section, "person" means, in addition  
29 to the definition contained in Section 25116, any responsible  
30 corporate officer.

31 (c) Enforcement measures for petroleum and other fuels shall  
32 be those contained in Section 25362.

33 SEC. 114. Section 25322 of the Public Resources Code is  
34 amended to read:

35 25322. (a) The data collection system managed pursuant to  
36 Section 25320 shall include the following requirements regarding  
37 the confidentiality of the information collected by the department:

38 (1) Any person required to present information to the department  
39 pursuant to this section may request that specific information be

1 held in confidence. The department shall grant the request in any  
2 of the following circumstances:

3 (A) The information is exempt from disclosure under the  
4 California Public Records Act, Chapter 3.5 (commencing with  
5 Section 6250) of Division 7 of Title 1 of the Government Code.

6 (B) The information satisfies the confidentiality requirements  
7 of Article 2 (commencing with Section 2501) of Chapter 7 of  
8 Division 2 of Title 20 of the California Code of Regulations, as  
9 those regulations existed on January 1, 2002.

10 (C) On the facts of the particular case, the public interest served  
11 by not disclosing the information clearly outweighs the public  
12 interest served by disclosure of the information.

13 (2) The department may, by regulation, designate certain  
14 categories of information as confidential, which removes the  
15 obligation to request confidentiality for that information.

16 (3) Any confidential information pertinent to the responsibilities  
17 of the department specified in this chapter that is obtained by  
18 another state agency, or the California Independent System  
19 Operator or its successor, shall be available to the department and  
20 shall be treated in a confidential manner.

21 (4) Information presented to or developed by the department  
22 and deemed confidential pursuant to this section shall be held in  
23 confidence by the department. Confidential information shall be  
24 aggregated or masked to the extent necessary to ensure  
25 confidentiality if public disclosure of the specific information  
26 would result in an unfair competitive disadvantage to the person  
27 supplying the information.

28 (b) Requests for records of information shall be handled as  
29 follows:

30 (1) If the department receives a written request to publicly  
31 disclose information that is being held in confidence pursuant to  
32 paragraph (1) or (2) of subdivision (a), the department shall provide  
33 the person making the request with written justification for the  
34 confidential designation and a description of the process to seek  
35 disclosure.

36 (2) If the department receives a written request to publicly  
37 disclose a disaggregated or unmasked record of information  
38 designated as confidential under paragraph (1) or (2) of subdivision  
39 (a), notice of the request shall be provided to the person that  
40 submitted the record. Upon receipt of the notice, the person that

1 submitted the record may, within five working days of receipt of  
2 the notice, provide a written justification of the claim of  
3 confidentiality.

4 (3) The department or its designee shall rule on a request made  
5 pursuant to paragraph (2) on or before 20 working days after its  
6 receipt. The department shall deny the request if the disclosure  
7 will result in an unfair competitive disadvantage to the person that  
8 submitted the information.

9 (4) If the department grants the request pursuant to paragraph  
10 (3), it shall withhold disclosure for a reasonable amount of time,  
11 not to exceed 14 working days, to allow the submitter of the  
12 information to seek judicial review.

13 (c) Information submitted to the department pursuant to this  
14 section is not confidential if the person submitting the information  
15 has made it public.

16 (d) The department shall establish, maintain, and use appropriate  
17 security practices and procedures to ensure that the information it  
18 has designated as confidential, or received with a confidential  
19 designation from another government agency, is protected against  
20 disclosure other than that authorized using the procedures in  
21 subdivision (b). The department shall incorporate the following  
22 elements into its security practices and procedures:

23 (1) Department employees shall sign a confidential data  
24 disclosure agreement providing for various remedies, including,  
25 but not limited to, fines and termination for wrongful disclosure  
26 of confidential information.

27 (2) Department employees, or contract employees of the  
28 department, shall only have access to confidential information  
29 when it is appropriate to their job assignments and if they have  
30 signed a nondisclosure agreement.

31 (3) Computer data systems that hold confidential information  
32 shall include sufficient security measures to protect the data from  
33 inadvertent or wrongful access by unauthorized department  
34 employees and the public.

35 (e) Data collected by the department on petroleum fuels in  
36 Section 25320 shall be subject to the confidentiality provisions of  
37 Sections 25364 to 25366, inclusive.

38 SEC. 115. Section 25323 of the Public Resources Code is  
39 amended to read:

1 25323. This division does not authorize the department in the  
2 performance of its analytical, planning, siting, or certification  
3 responsibilities to mandate a specified supply plan for any utility.

4 SEC. 116. Section 25324 of the Public Resources Code is  
5 amended to read:

6 25324. The department, in consultation with the Public Utilities  
7 Commission, the California Independent System Operator,  
8 transmission owners, users, and consumers, shall develop and the  
9 board shall adopt a strategic plan for the state's electric  
10 transmission grid using existing resources. The strategic plan shall  
11 identify and recommend actions required to implement investments  
12 needed to ensure reliability, relieve congestion, and meet future  
13 growth in load and generation, including, but not limited to,  
14 renewable resources, energy efficiency, and other demand reduction  
15 measures. The plan shall be included in each integrated energy  
16 policy report adopted pursuant to subdivision (a) of Section 25302.

17 SEC. 117. Section 25331 of the Public Resources Code is  
18 amended to read:

19 25331. (a) The board may designate a transmission corridor  
20 zone on its own motion or by application of a person who plans  
21 to construct a high-voltage electric transmission line within the  
22 state. The designation of a transmission corridor zone shall serve  
23 to identify a feasible corridor where one or more future  
24 high-voltage electric transmission lines can be built that are  
25 consistent with the state's needs and objectives as set forth in the  
26 strategic plan adopted pursuant to Section 25324.

27 (b) A person planning to construct a high-voltage electric  
28 transmission line may submit to the board an application to  
29 designate a proposed transmission corridor zone as being consistent  
30 with the strategic plan adopted pursuant to Section 25324. The  
31 application shall be in the form prescribed by the board and shall  
32 be supported by any information that the board may require.

33 SEC. 118. Section 25332 of the Public Resources Code is  
34 amended to read:

35 25332. The designation of a transmission corridor zone is  
36 subject to the California Environmental Quality Act (Division 13  
37 (commencing with Section 21000)). The department shall be the  
38 lead agency, as provided in Section 21165, for all transmission  
39 corridor zones proposed for designation pursuant to this chapter.

1 SEC. 119. Section 25333 of the Public Resources Code is  
2 amended to read:

3 25333. (a) In developing a strategic plan pursuant to Section  
4 25324 or considering an application for designation pursuant to  
5 this chapter, the department shall confer with cities and counties,  
6 federal agencies, and California Native American tribes to identify  
7 appropriate areas within their jurisdictions that may be suitable  
8 for a transmission corridor zone. The department shall, to the extent  
9 feasible, coordinate efforts to identify long-term transmission needs  
10 of the state with the land use plans of cities, counties, federal  
11 agencies, and California Native American tribes.

12 (b) The board shall not designate a transmission corridor zone  
13 within the jurisdiction of a California Native American tribe  
14 without the approval of the California Native American tribe.

15 SEC. 120. Section 25334 of the Public Resources Code is  
16 amended to read:

17 25334. (a) Upon receipt of an application or upon its own  
18 motion for designation of a transmission corridor zone, the board  
19 shall arrange for the publication of a summary of the application  
20 in a newspaper of general circulation in each county where the  
21 proposed transmission corridor zone would be located, and shall  
22 notify all property owners within, or adjacent to, the transmission  
23 corridor zone. The department shall transmit a copy of the  
24 application for designation to all cities, counties, and state and  
25 federal agencies having an interest in the proposed transmission  
26 corridor zone. The department shall publish the application for  
27 designation on its Internet Web site, and notify members of the  
28 public that the application is available on the department's Internet  
29 Web site.

30 (b) As soon as practicable after the receipt of an application or  
31 upon the board's motion for designation of a transmission corridor  
32 zone, the department shall notify cities, counties, state and federal  
33 agencies, and California Native American tribes in whose  
34 jurisdictions the proposed transmission corridor zone would be  
35 located regarding the proposed transmission corridor zone and the  
36 objectives of the most recent strategic plan for the state's electric  
37 transmission grid. The department's notice shall solicit information  
38 from, and the department shall confer with, all interested cities,  
39 counties, state and federal agencies, and California Native  
40 American tribes regarding their land use plans, existing land uses,

1 and other factors in which they have expertise or interest with  
2 respect to the proposed transmission corridor zone. The department  
3 shall provide any interested city, county, state or federal agency,  
4 California Native American tribe, or member of the public,  
5 including any property owner within the proposed transmission  
6 corridor zone, ample opportunity to participate in the board's  
7 review of a proposed transmission corridor zone.

8 (c) The department shall request affected cities, counties, state  
9 and federal agencies, the Independent System Operator, interested  
10 California Native American tribes, and members of the public,  
11 including any property owner within the proposed transmission  
12 corridor zone, to provide comments on the suitability of the  
13 proposed transmission corridor zone with respect to environmental,  
14 public health and safety, land use, economic, and  
15 transmission-system impacts or other factors on which they may  
16 have expertise.

17 (d) The department shall require a person who files an  
18 application for the designation of a transmission corridor zone to  
19 pay a fee sufficient to reimburse the department for all costs  
20 associated with reviewing the application. If the board initiates the  
21 designation of a transmission corridor zone on its own motion, the  
22 department shall fix the surcharge imposed pursuant to subdivision  
23 (b) of Section 40016 of the Revenue and Taxation Code, at a level  
24 sufficient to cover the department's added costs.

25 (e) Upon receiving the department's request for review of a  
26 proposed transmission corridor zone, a city or county may request  
27 a fee pursuant to Section 25538 to cover the actual and added costs  
28 of this review and the department shall pay this amount to the city  
29 or county.

30 SEC. 121. Section 25335 of the Public Resources Code is  
31 amended to read:

32 25335. (a) Within 45 days of receipt of the application or  
33 motion for designation, the board shall commence public  
34 informational hearings in the county or counties where the  
35 proposed transmission corridor zone would be located.

36 (b) The purpose of the hearings shall be to do all of the  
37 following:

38 (1) Provide information about the proposed transmission corridor  
39 zone so that the public and interested agencies have a clear  
40 understanding of what is being proposed.

1 (2) Explain the relationship of the proposed transmission  
2 corridor zone to the board's strategic plan for the state's electric  
3 transmission grid, as set forth in the most recent integrated energy  
4 policy report adopted pursuant to Chapter 4 (commencing with  
5 Section 25300).

6 (3) Receive initial comments about the proposed transmission  
7 corridor zone from the public and interested agencies.

8 (4) Solicit information on reasonable alternatives to the proposed  
9 transmission corridor zone.

10 SEC. 122. Section 25336 of the Public Resources Code is  
11 amended to read:

12 25336. (a) Within 155 days of the final informational hearing,  
13 the board shall conduct a prehearing conference to determine the  
14 issues to be considered in hearings pursuant to this section, to  
15 identify the dates for the hearings, and to set forth filing dates for  
16 public comments and testimony from the parties and interested  
17 agencies. Within 15 days of the prehearing conference, the board  
18 shall issue a hearing order setting forth the issues to be heard, the  
19 dates of the hearings, and the filing dates for comments and  
20 testimony.

21 (b) The board shall conduct hearings pursuant to the hearing  
22 order. The purpose of the hearings shall be to receive information  
23 upon which the board can make findings and conclusions pursuant  
24 to Section 25337.

25 SEC. 123. Section 25337 of the Public Resources Code is  
26 amended to read:

27 25337. After the conclusion of hearings conducted pursuant  
28 to Section 25336, and no later than 180 days after the date of  
29 certification of the environmental impact report prepared pursuant  
30 to Section 25332, the board shall issue a proposed decision that  
31 contains its findings and conclusions regarding all of the following  
32 matters:

33 (a) Conformity of the proposed transmission corridor zone with  
34 the strategic plan adopted pursuant to Section 25324.

35 (b) Suitability of the proposed transmission corridor zone with  
36 respect to environmental, public health and safety, land use,  
37 economic, and transmission-system impacts.

38 (c) Mitigation measures and alternatives as may be needed to  
39 protect environmental quality, public health and safety, the state's  
40 electric transmission grid, or any other relevant matter.

1 (d) Other factors that the board considers relevant.

2 SEC. 124. Section 25338 of the Public Resources Code is  
3 amended to read:

4 25338. As soon as practicable after the board designates a  
5 transmission corridor zone, the department shall post a copy of  
6 the board's decision on the department's Internet Web site, send  
7 a copy of the board's decision, including a description of the  
8 transmission corridor zone, to each affected city, county, state  
9 agency, and federal agency, and notify property owners within or  
10 adjacent to the corridor of the availability of the decision on the  
11 department's Internet Web site.

12 SEC. 125. Section 25339 of the Public Resources Code is  
13 amended to read:

14 25339. After the board designates a transmission corridor zone,  
15 the department shall identify that transmission corridor zone in its  
16 subsequent strategic plans adopted by the board pursuant to Section  
17 25324. The board shall regularly review and revise its designated  
18 transmission corridor zones as necessary, but not less than once  
19 every 10 years. In revising designations of transmission corridor  
20 zones, the board shall follow the procedures of this chapter. If,  
21 upon regular review or at any other time, the board finds that a  
22 transmission corridor zone is no longer needed, the board shall  
23 revise or repeal the designation and, as soon as practicable, notify  
24 the affected cities, counties, state and federal agencies, and property  
25 owners within, or adjacent to, the transmission corridor zone.

26 SEC. 126. Section 25340 of the Public Resources Code is  
27 amended to read:

28 25340. After receiving notice from the department regarding  
29 the designation or revision by the board of a transmission corridor  
30 zone within its jurisdiction, each city or county shall consider the  
31 designated transmission corridor zone when making a  
32 determination regarding a land use change within or adjacent to  
33 the transmission corridor zone that could affect its continuing  
34 viability to accommodate a transmission line planned within the  
35 transmission corridor zone. Nothing in this section shall preclude  
36 compatible uses within or adjacent to a designated transmission  
37 corridor zone.

38 SEC. 127. Section 25341 of the Public Resources Code is  
39 amended to read:

1 25341. (a) Within a designated transmission corridor zone,  
2 within 10 days of accepting as complete an application pursuant  
3 to Section 65943 of the Government Code for a development  
4 project that a city or county determines would threaten the potential  
5 to construct a high-voltage electric transmission line, the city or  
6 county shall notify the board of the proposed development project.  
7 The notice shall include a copy of the application, and set a  
8 deadline that is not less than 60 days from the date of the notice  
9 for the board to provide written comments to the city or county  
10 regarding the proposed development project.

11 (b) If the board finds that the proposed development project  
12 would threaten the potential to construct a high-voltage electric  
13 transmission line within the designated transmission corridor zone,  
14 the board shall provide written comments to the city or county.  
15 The board may recommend revisions to, redesign of, or mitigation  
16 measures for the proposed development project that would  
17 eliminate or reduce the threat.

18 (c) The city or county shall consider the board's comments, if  
19 any, prior to acting on the proposed development project. If the  
20 board objects to the proposed development project, the city or  
21 county shall provide a written response that shall address in detail  
22 why it did not accept the board's comments and recommendations.

23 SEC. 128. Section 25354 of the Public Resources Code is  
24 amended to read:

25 25354. (a) Each refiner and major marketer shall submit  
26 information each month to the department in the form and extent  
27 as the department prescribes pursuant to this section. The  
28 information shall be submitted within 30 days after the end of each  
29 monthly reporting period and shall include the following:

30 (1) Refiners shall report, for each of their refineries, feedstock  
31 inputs, origin of petroleum receipts, imports of finished petroleum  
32 products and blendstocks, by type, including the source of those  
33 imports, exports of finished petroleum products and blendstocks,  
34 by type, including the destination of those exports, refinery outputs,  
35 refinery stocks, and finished product supply and distribution,  
36 including all gasoline sold unbranded by the refiner, blender, or  
37 importer.

38 (2) Major marketers shall report on petroleum product receipts  
39 and the sources of these receipts, inventories of finished petroleum  
40 products and blendstocks, by type, distributions through branded

1 and unbranded distribution networks, and exports of finished  
2 petroleum products and blendstocks, by type, from the state.

3 (b) Each major oil producer, refiner, marketer, oil transporter,  
4 and oil storer shall annually submit information to the department  
5 in the form and extent as the department prescribes pursuant to  
6 this section. The information shall be submitted within 30 days  
7 after the end of each reporting period, and shall include the  
8 following:

9 (1) Major oil transporters shall report on petroleum by reporting  
10 the capacities of each major transportation system, the amount  
11 transported by each system, and inventories thereof. The  
12 department may prescribe rules and regulations that exclude  
13 pipeline and transportation modes operated entirely on property  
14 owned by major oil transporters from the reporting requirements  
15 of this section if the data or information is not needed to fulfill the  
16 purposes of this chapter. The provision of the information shall  
17 not be construed to increase or decrease any authority the Public  
18 Utilities Commission may otherwise have.

19 (2) Major oil storers shall report on storage capacity, inventories,  
20 receipts and distributions, and methods of transportation of receipts  
21 and distributions.

22 (3) Major oil producers shall, with respect to thermally enhanced  
23 oil recovery operations, report annually by designated oil field,  
24 the monthly use, as fuel, of crude oil and natural gas.

25 (4) Refiners shall report on facility capacity, and utilization and  
26 method of transportation of refinery receipts and distributions.

27 (5) Major oil marketers shall report on facility capacity and  
28 methods of transportation of receipts and distributions.

29 (c) Each person required to report pursuant to subdivision (a)  
30 shall submit a projection each month of the information to be  
31 submitted pursuant to subdivision (a) for the quarter following the  
32 month in which the information is submitted to the department.

33 (d) In addition to the data required under subdivision (a), each  
34 integrated oil refiner (who produces, refines, transports, and  
35 markets in interstate commerce) who supplies more than 500  
36 branded retail outlets in California shall submit to the department  
37 an annual industry forecast for Petroleum Administration for  
38 Defense, District V (covering Alaska, Arizona, California, Hawaii,  
39 Nevada, Oregon, and Washington). The forecast shall include the  
40 information to be submitted under subdivision (a), and shall be

1 submitted by March 15 of each year. The department may require  
2 California-specific forecasts. However, those forecasts shall be  
3 required only if the department finds them necessary to carry out  
4 its responsibilities.

5 (e) The department may by order or regulation modify the  
6 reporting period as to any individual item of information setting  
7 forth in the order or regulation its reason for so doing.

8 (f) The department may request additional information as  
9 necessary to perform its responsibilities under this chapter.

10 (g) Any person required to submit information or data under  
11 this chapter, in lieu thereof, may submit a report made to any other  
12 governmental agency, if:

13 (1) The alternate report or reports contain all of the information  
14 or data required by specific request under this chapter.

15 (2) The person clearly identifies the specific request to which  
16 the alternate report is responsive.

17 (h) Each refiner shall submit to the department, within 30 days  
18 after the end of each monthly reporting period, all of the following  
19 information in such form and extent as the department prescribes:

20 (1) Monthly California weighted average prices and sales  
21 volumes of finished leaded regular, unleaded regular, and premium  
22 motor gasoline sold through company-operated retail outlets, to  
23 other end-users, and to wholesale customers.

24 (2) Monthly California weighted average prices and sales  
25 volumes for residential sales, commercial and institutional sales,  
26 industrial sales, sales through company-operated retail outlets,  
27 sales to other end-users, and wholesale sales of No. 2 diesel fuel  
28 and No. 2 fuel oil.

29 (3) Monthly California weighted average prices and sales  
30 volumes for retail sales and wholesale sales of No. 1 distillate,  
31 kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4  
32 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel  
33 oil with greater than 1 percent sulfur, and consumer grade propane.

34 (i) (1) Beginning the first week after the effective date of the  
35 act that added this subdivision, and each week thereafter, an oil  
36 refiner, oil producer, petroleum product transporter, petroleum  
37 product marketer, petroleum product pipeline operator, and  
38 terminal operator, as designated by the department, shall submit  
39 a report in the form and extent as the department prescribes

1 pursuant to this section. The department may determine the form  
2 and extent necessary by order or by regulation.

3 (2) A report may include any of the following information:

4 (A) Receipts and inventory levels of crude oil and petroleum  
5 products at each refinery and terminal location.

6 (B) Amount of gasoline, diesel, jet fuel, blending components,  
7 and other petroleum products imported and exported.

8 (C) Amount of gasoline, diesel, jet fuel, blending components,  
9 and other petroleum products transported intrastate by marine  
10 vessel.

11 (D) Amount of crude oil imported, including information  
12 identifying the source of the crude oil.

13 (E) The regional average of invoiced retailer buying price. This  
14 subparagraph does not either preclude or augment the current  
15 authority of the department to collect additional data under  
16 subdivision (f).

17 (3) This subdivision is intended to clarify the department's  
18 existing authority under subdivision (f) to collect specific  
19 information. This subdivision does not either preclude or augment  
20 the existing authority of the department to collect information.

21 SEC. 129. Section 25356 of the Public Resources Code is  
22 amended to read:

23 25356. (a) The department, utilizing its own staff and other  
24 support staff having expertise and experience in, or with, the  
25 petroleum industry, shall gather, analyze, and interpret the  
26 information submitted to it pursuant to Section 25354 and other  
27 information relating to the supply and price of petroleum products,  
28 with particular emphasis on motor vehicle fuels, including, but not  
29 limited to, all of the following:

30 (1) The nature, cause, and extent of any petroleum or petroleum  
31 products shortage or condition affecting supply.

32 (2) The economic and environmental impacts of any petroleum  
33 and petroleum product shortage or condition affecting supply.

34 (3) Petroleum or petroleum product demand and supply  
35 forecasting methodologies utilized by the petroleum industry in  
36 California.

37 (4) The prices, with particular emphasis on retail motor fuel  
38 prices, including sales to unbranded retail markets, and any  
39 significant changes in prices charged by the petroleum industry

1 for petroleum or petroleum products sold in California and the  
2 reasons for those changes.

3 (5) The profits, both before and after taxes, of the industry as a  
4 whole and of major firms within it, including a comparison with  
5 other major industry groups and major firms within them as to  
6 profits, return on equity and capital, and price-earnings ratio.

7 (6) The emerging trends relating to supply, demand, and  
8 conservation of petroleum and petroleum products.

9 (7) The nature and extent of efforts of the petroleum industry  
10 to expand refinery capacity and to make acquisitions of additional  
11 supplies of petroleum and petroleum products, including activities  
12 relative to the exploration, development, and extraction of resources  
13 within the state.

14 (8) The development of a petroleum and petroleum products  
15 information system in a manner that will enable the state to take  
16 action to meet and mitigate any petroleum or petroleum products  
17 shortage or condition affecting supply.

18 (b) The department shall analyze the impacts of state and federal  
19 policies and regulations upon the supply and pricing of petroleum  
20 products.

21 SEC. 130. Section 25357 of the Public Resources Code is  
22 amended to read:

23 25357. The department shall obtain and analyze monthly  
24 production reports prepared by the State Oil and Gas Supervisor  
25 pursuant to Section 3227.

26 SEC. 131. Section 25358 of the Public Resources Code is  
27 amended to read:

28 25358. (a) Within 70 days after the end of each preceding  
29 quarter of each calendar year, the department shall publish and  
30 submit to the Governor and the Legislature a summary, an analysis,  
31 and an interpretation of the information submitted to it pursuant  
32 to Section 25354 and information reviewed pursuant to Section  
33 25357. This report shall be separate from the report submitted  
34 pursuant to Section 25302. Any person may submit comments in  
35 writing regarding the accuracy or sufficiency of the information  
36 submitted.

37 (b) The department shall prepare a biennial assessment of the  
38 information provided pursuant to this chapter and shall include its  
39 assessment in the biennial fuels report prepared pursuant to Section  
40 25310.

1 (c) The department may use reasonable means necessary and  
2 available to it to seek and obtain any facts, figures, and other  
3 information from any source for the purpose of preparing and  
4 providing reports to the Governor and the Legislature. The  
5 department shall specifically include in the reports its analysis of  
6 any unsuccessful attempts in obtaining information from potential  
7 sources, including the lack of cooperation or refusal to provide  
8 information.

9 (d) Whenever the department fails to provide any report required  
10 pursuant to this section within the specified time, it shall provide  
11 to all members of the Legislature, within five days of the specified  
12 time, a detailed written explanation of the cause of any delay.

13 SEC. 132. Section 25362 of the Public Resources Code is  
14 amended to read:

15 25362. (a) The department shall notify those persons who have  
16 failed to timely provide the information specified in Section 25354.  
17 If, within five days after being notified of the failure to provide  
18 the specified information, the person fails to supply the specified  
19 information, the person shall be subject to a civil penalty of not  
20 less than five hundred dollars (\$500) nor more than two thousand  
21 dollars (\$2,000) per day for each day the submission of information  
22 is refused or delayed, unless the person has timely filed objections  
23 with the department regarding the information and the department  
24 has not yet held a hearing on the matter, or the department has  
25 held a hearing and the person has properly submitted the issue to  
26 a court of competent jurisdiction for review.

27 (b) Any person who willfully makes any false statement,  
28 representation, or certification in any record, report, plan, or other  
29 document filed with the department shall be subject to a civil  
30 penalty not to exceed two thousand dollars (\$2,000).

31 (c) For the purposes of this section, the term “person” shall  
32 mean, in addition to the definition contained in Section 25116, any  
33 responsible corporate officer.

34 SEC. 133. Section 25364 of the Public Resources Code is  
35 amended to read:

36 25364. (a) A person required to present information to the  
37 department pursuant to Section 25354 may request that specific  
38 information be held in confidence. Information requested to be  
39 held in confidence shall be presumed to be confidential.

1 (b) Information presented to the department pursuant to Section  
2 25354 shall be held in confidence by the department or aggregated  
3 to the extent necessary to ensure confidentiality if public disclosure  
4 of the specific information or data would result in unfair  
5 competitive disadvantage to the person supplying the information.

6 (c) (1) Whenever the department receives a request to publicly  
7 disclose unaggregated information, or otherwise proposes to  
8 publicly disclose information submitted pursuant to Section 25354,  
9 notice of the request or proposal shall be provided to the person  
10 submitting the information. The notice shall indicate the form in  
11 which the information is to be released. Upon receipt of notice,  
12 the person submitting the information shall have 10 working days  
13 in which to respond to the notice to justify the claim of  
14 confidentiality on each specific item of information covered by  
15 the notice on the basis that public disclosure of the specific  
16 information would result in unfair competitive disadvantage to the  
17 person supplying the information.

18 (2) The department shall consider the respondent's submittal  
19 in determining whether to publicly disclose the information  
20 submitted to it to which a claim of confidentiality is made. The  
21 department shall issue a written decision that sets forth its reasons  
22 for making the determination whether each item of information  
23 for which a claim of confidentiality is made shall remain  
24 confidential or shall be publicly disclosed.

25 (d) The department shall not make public disclosure of  
26 information submitted to it pursuant to Section 25354 within 10  
27 working days after the department has issued its written decision  
28 required in this section.

29 (e) Information submitted to the department pursuant to Section  
30 25354 shall not be deemed confidential if the person submitting  
31 the information or data has made it public.

32 (f) With respect to petroleum products and blendstocks reported  
33 by type pursuant to paragraph (1) or (2) of subdivision (a) of  
34 Section 25354 and information provided pursuant to subdivision  
35 (h) or (i) of Section 25354, neither the board members nor any  
36 employee of the department may do any of the following:

37 (1) Use the information furnished under paragraph (1) or (2) of  
38 subdivision (a) of Section 25354 or under subdivision (h) or (i) of  
39 Section 25354 for any purpose other than the statistical purposes  
40 for which it is supplied.

1 (2) Make any publication whereby the information furnished  
2 by any particular establishment or individual under paragraph (1)  
3 or (2) of subdivision (a) of Section 25354 or under subdivision (h)  
4 or (i) of Section 25354 can be identified.

5 (3) Permit anyone other than board members and employees of  
6 the department to examine the individual reports provided under  
7 paragraph (1) or (2) of subdivision (a) of Section 25354 or under  
8 subdivision (h) or (i) of Section 25354.

9 (g) Notwithstanding any other provision of law, the department  
10 may disclose confidential information received pursuant to  
11 subdivision (a) of Section 25304 or Section 25354 to the State Air  
12 Resources Board if the state board agrees to keep the information  
13 confidential. With respect to the information it receives, the state  
14 board shall be subject to all pertinent provisions of this section.

15 SEC. 134. Section 25366 of the Public Resources Code is  
16 amended to read:

17 25366. Any confidential information pertinent to the  
18 responsibilities of the department specified in this division that is  
19 obtained by another state agency shall be available to the  
20 department and shall be treated in a confidential manner.

21 SEC. 135. Section 25400 of the Public Resources Code is  
22 amended to read:

23 25400. The department shall conduct an ongoing assessment  
24 of the opportunities and constraints presented by all forms of  
25 energy. The department shall encourage the balanced use of all  
26 sources of energy to meet the state's needs and shall seek to avoid  
27 possible undesirable consequences of reliance on a single source  
28 of energy.

29 SEC. 136. Section 25401 of the Public Resources Code is  
30 amended to read:

31 25401. (a) The department shall continuously carry out  
32 studies, research projects, data collection, and other activities  
33 required to assess the nature, extent, and distribution of energy  
34 resources to meet the needs of the state, including, but not limited  
35 to, fossil fuels and solar, nuclear, and geothermal energy resources.  
36 It shall also carry out studies, technical assessments, research  
37 projects, and data collection directed to reducing wasteful,  
38 inefficient, unnecessary, or uneconomic uses of energy, including,  
39 but not limited to, all of the following:

40 (1) Pricing of electricity and other forms of energy.

1 (2) Improved building design and insulation.  
2 (3) Restriction of promotional activities designed to increase  
3 the use of electrical energy by consumers.

4 (4) Improved appliance efficiency.

5 (5) Advances in power generation and transmission technology.

6 (6) Comparisons in the efficiencies of alternative methods of  
7 energy utilization.

8 (b) The department shall survey pursuant to this section all  
9 forms of energy on which to base its recommendations to the  
10 Governor and Legislature for elimination of waste or increases in  
11 efficiency for sources or uses of energy. The department shall  
12 transmit to the Governor and the Legislature, as part of the biennial  
13 report specified in Section 25302, recommendations for state policy  
14 and actions for the orderly development of all potential sources of  
15 energy to meet the state's needs, including, but not limited to,  
16 fossil fuels and solar, nuclear, and geothermal energy resources,  
17 and to reduce wasteful and inefficient uses of energy.

18 SEC. 137. Section 25401.2 of the Public Resources Code is  
19 amended to read:

20 25401.2. (a) As part of the report required by Section 25302,  
21 the department shall develop and update an inventory of current  
22 and potential cost-effective opportunities in each utility's service  
23 territory, to improve efficiencies and to help utilities manage loads  
24 in all sectors of natural gas and electricity use. The report shall  
25 include estimates of the overall magnitude of these resources, load  
26 shapes, and the projected costs associated with delivering the  
27 various types of energy savings that are identified in the inventory.  
28 The report shall also estimate the amount and incremental cost per  
29 unit of potential energy efficiency and load management activities.  
30 Where applicable, the inventory shall include data on variations  
31 in savings and costs associated with particular measures. The report  
32 shall take into consideration environmental benefits as developed  
33 in related department and Public Utilities Commission proceedings.

34 (b) The department shall develop and maintain the inventory in  
35 consultation with electric and gas utilities, the Public Utilities  
36 Commission, academic institutions, and other interested parties.

37 (c) The department shall convene a technical advisory group to  
38 develop an analytical framework for the inventory, to discuss the  
39 level of detail at which the inventory would operate, and to ensure  
40 that the inventory is consistent with other demand-side databases.

1 Privately owned electric and gas utilities shall provide financial  
2 support, gather data, and provide analysis for activities that the  
3 technical advisory group recommends. The technical advisory  
4 group shall terminate on January 1, 1993.

5 SEC. 138. Section 25401.5 of the Public Resources Code is  
6 amended to read:

7 25401.5. For the purpose of reducing electrical and natural gas  
8 energy consumption, the department may develop and disseminate  
9 measures that would enhance energy efficiency for single-family  
10 residential dwellings that were built prior to the development of  
11 the current energy efficiency standards. The measures, if developed  
12 and disseminated, shall provide a homeowner with information to  
13 improve the energy efficiency of a single-family residential  
14 dwelling. The department may comply with this section by posting  
15 the measures on the department's Internet Web site or by making  
16 the measures available to the public, upon request.

17 SEC. 139. Section 25401.6 of the Public Resources Code is  
18 amended to read:

19 25401.6. (a) In its administration of Section 25744, the  
20 department shall establish a separate rebate for eligible distributed  
21 emerging technologies for affordable housing projects, including,  
22 but not limited to, projects undertaken pursuant to Section 50052.5,  
23 50053, or 50199.4 of the Health and Safety Code. In establishing  
24 the rebate, where the department determines that the occupants of  
25 the housing shall have individual meters, the department may  
26 adjust the amount of the rebate based on the capacity of the system,  
27 provided that a system may receive a rebate only up to 75 percent  
28 of the total installed costs. The department may establish a  
29 reasonable limit on the total amount of funds dedicated for purposes  
30 of this section.

31 (b) It is the intent of the Legislature that this section fulfills the  
32 purpose of paragraph (5) of subdivision (b) of Section 25744.

33 SEC. 140. Section 25401.7 of the Public Resources Code is  
34 amended to read:

35 25401.7. At the time a single-family residential dwelling is  
36 sold, a buyer or seller may request a home inspection, as defined  
37 in subdivision (a) of Section 7195 of the Business and Professions  
38 Code, and a home inspector, as defined in subdivision (d) of  
39 Section 7195 of the Business and Professions Code, shall provide

1 contact information for one or more of the following entities that  
2 provide home energy information:

3 (a) A nonprofit organization.

4 (b) A provider to the residential dwelling of electrical service  
5 or gas service, or both.

6 (c) A government agency, including, but not limited to, the  
7 department.

8 SEC. 141. Section 25401.9 of the Public Resources Code is  
9 amended to read:

10 25401.9. (a) To the extent that funds are available, the board,  
11 in consultation with the Department of Water Resources, shall  
12 adopt by regulation, after holding one or more public hearings,  
13 performance standards and labeling requirements for landscape  
14 irrigation equipment, including, but not limited to, irrigation  
15 controllers, moisture sensors, emission devices, and valves, for  
16 the purpose of reducing the wasteful, uneconomic, inefficient, or  
17 unnecessary consumption of energy or water.

18 (b) For the purposes of complying with subdivision (a), the  
19 board shall do all of the following:

20 (1) Adopt performance standards and labeling requirements for  
21 landscape irrigation controllers and moisture sensors on or before  
22 January 1, 2010.

23 (2) Consider the Irrigation Association's Smart Water  
24 Application Technology Program testing protocols when adopting  
25 performance standards for landscape irrigation equipment,  
26 including, but not limited to, irrigation controllers, moisture  
27 sensors, emission devices, and valves.

28 (3) Prepare and submit a report to the Legislature, on or before  
29 January 1, 2010, that sets forth a proposed schedule for adopting  
30 performance standards and labeling requirements for emission  
31 devices and valves.

32 (c) On and after January 1, 2012, an irrigation controller or  
33 moisture sensor for landscape irrigation uses may not be sold or  
34 installed in the state unless the controller or sensor meets the  
35 performance standards and labeling requirements established  
36 pursuant to this section.

37 SEC. 142. Section 25402 of the Public Resources Code is  
38 amended to read:

39 25402. The board, with the support of the department, shall,  
40 after one or more public hearings, do all of the following, in order

1 to reduce the wasteful, uneconomic, inefficient, or unnecessary  
2 consumption of energy, including the energy associated with the  
3 use of water:

4 (a) (1) Prescribe, by regulation, lighting, insulation climate  
5 control system, and other building design and construction  
6 standards that increase the efficiency in the use of energy and water  
7 for new residential and new nonresidential buildings. The board  
8 shall periodically update the standards and adopt any revision that,  
9 in its judgment, it deems necessary. Six months after the board  
10 certifies an energy conservation manual pursuant to subdivision  
11 (c) of Section 25402.1, a city, county, city and county, or state  
12 agency shall not issue a permit for any building unless the building  
13 satisfies the standards prescribed by the board pursuant to this  
14 subdivision or subdivision (b) that are in effect on the date an  
15 application for a building permit is filed. Water efficiency standards  
16 adopted pursuant to this subdivision shall be demonstrated by the  
17 board to be necessary to save energy.

18 (2) Prior to adopting a water efficiency standard for residential  
19 buildings, the Department of Housing and Community  
20 Development and the board shall issue a joint finding whether the  
21 standard (A) is equivalent or superior in performance, safety, and  
22 for the protection of life, health, and general welfare to standards  
23 in Title 24 of the California Code of Regulations and (B) does not  
24 unreasonably or unnecessarily impact the ability of Californians  
25 to purchase or rent affordable housing, as determined by taking  
26 account of the overall benefit derived from water efficiency  
27 standards. Nothing in this subdivision in any way reduces the  
28 authority of the Department of Housing and Community  
29 Development to adopt standards and regulations pursuant to Part  
30 1.5 (commencing with Section 17910) of Division 13 of the Health  
31 and Safety Code.

32 (3) Water efficiency standards and water conservation design  
33 standards adopted pursuant to this subdivision and subdivision (b)  
34 shall be consistent with the legislative findings of this division to  
35 ensure and maintain a reliable supply of electrical energy and be  
36 equivalent to or superior to the performance, safety, and protection  
37 of life, health, and general welfare standards contained in Title 24  
38 of the California Code of Regulations. The board shall consult  
39 with the members of the coordinating council as established in

1 Section 18926 of the Health and Safety Code in the development  
2 of these standards.

3 (b) (1) Prescribe, by regulation, energy and water conservation  
4 design standards for new residential and new nonresidential  
5 buildings. The standards shall be performance standards and shall  
6 be promulgated in terms of energy consumption per gross square  
7 foot of floorspace, but may also include devices, systems, and  
8 techniques required to conserve energy and water. The board shall  
9 periodically review the standards and adopt any revision that, in  
10 its judgment, it deems necessary. A building that satisfies the  
11 standards prescribed pursuant to this subdivision need not comply  
12 with the standards prescribed pursuant to subdivision (a). Water  
13 conservation design standards adopted pursuant to this subdivision  
14 shall be demonstrated by the board to be necessary to save energy.  
15 Prior to adopting a water conservation design standard for  
16 residential buildings, the Department of Housing and Community  
17 Development and the board shall issue a joint finding whether the  
18 standard (A) is equivalent or superior in performance, safety, and  
19 for the protection of life, health, and general welfare to standards  
20 in the California Building Standards Code and (B) does not  
21 unreasonably or unnecessarily impact the ability of Californians  
22 to purchase or rent affordable housing, as determined by taking  
23 account of the overall benefit derived from the water conservation  
24 design standards. Nothing in this subdivision in any way reduces  
25 the authority of the Department of Housing and Community  
26 Development to adopt standards and regulations pursuant to Part  
27 1.5 (commencing with Section 17910) of Division 13 of the Health  
28 and Safety Code.

29 (2) In order to increase public participation and improve the  
30 efficacy of the standards adopted pursuant to this subdivision and  
31 subdivision (a), the board shall, prior to publication of the notice  
32 of proposed action required by Section 18935 of the Health and  
33 Safety Code, involve parties who would be subject to the proposed  
34 regulations in public meetings regarding the proposed regulations.  
35 All potential affected parties shall be provided advance notice of  
36 these meetings and given an opportunity to provide written or oral  
37 comments. During these public meetings, the board shall receive  
38 and take into consideration input from all parties concerning the  
39 parties' design recommendations, cost considerations, and other  
40 factors that would affect consumers and California businesses of

1 the proposed standard. The board shall take into consideration  
2 prior to the start of the notice of proposed action any input provided  
3 during these public meetings.

4 (3) The standards adopted or revised pursuant to this subdivision  
5 and subdivision (a) shall be cost effective when taken in their  
6 entirety and when amortized over the economic life of the structure  
7 compared with historic practice. When determining  
8 cost-effectiveness, the board shall consider the value of the water  
9 or energy saved, impact on product efficacy for the consumer, and  
10 the life cycle cost of complying with the standard. The board shall  
11 consider other relevant factors, as required by Sections 18930 and  
12 18935 of the Health and Safety Code, including, but not limited  
13 to, the impact on housing costs, the total statewide costs and  
14 benefits of the standard over its lifetime, economic impact on  
15 California businesses, and alternative approaches and their  
16 associated costs.

17 (c) (1) Prescribe, by regulation, standards for minimum levels  
18 of operating efficiency, based on a reasonable use pattern, and  
19 may prescribe other cost-effective measures, including incentive  
20 programs, fleet averaging, energy and water consumption labeling  
21 not preempted by federal labeling law, and consumer education  
22 programs, to promote the use of energy and water efficient  
23 appliances whose use, as determined by the board, requires a  
24 significant amount of energy or water on a statewide basis. The  
25 minimum levels of operating efficiency shall be based on feasible  
26 and attainable efficiencies or feasible and improved efficiencies  
27 that will reduce the energy or water consumption growth rates.  
28 The standards shall become effective no sooner than one year after  
29 the date of adoption or revision. No new appliance manufactured  
30 on or after the effective date of the standards may be sold or offered  
31 for sale in the state, unless it is certified by the manufacturer thereof  
32 to be in compliance with the standards. The standards shall be  
33 drawn so that they do not result in any added total costs for  
34 consumers over the designed life of the appliances concerned.

35 In order to increase public participation and improve the efficacy  
36 of the standards adopted pursuant to this subdivision, the board  
37 shall, prior to publication of the notice of proposed action required  
38 by Section 18935 of the Health and Safety Code, involve parties  
39 who would be subject to the proposed regulations in public  
40 meetings regarding the proposed regulations. All potential affected

1 parties shall be provided advance notice of these meetings and  
2 given an opportunity to provide written or oral comments. During  
3 these public meetings, the board shall receive and take into  
4 consideration input from all parties concerning the parties' design  
5 recommendations, cost considerations, and other factors that would  
6 affect consumers and California businesses of the proposed  
7 standard. The board shall take into consideration prior to the start  
8 of the notice of proposed action any input provided during these  
9 public meetings.

10 The standards adopted or revised pursuant to this subdivision  
11 shall not result in any added total costs for consumers over the  
12 designed life of the appliances concerned. When determining  
13 cost-effectiveness, the board shall consider the value of the water  
14 or energy saved, impact on product efficacy for the consumer, and  
15 the life cycle cost to the consumer of complying with the standard.  
16 The board shall consider other relevant factors, as required by  
17 Sections 11346.5 and 11357 of the Government Code, including,  
18 but not limited to, the impact on housing costs, the total statewide  
19 costs and benefits of the standard over its lifetime, economic impact  
20 on California businesses, and alternative approaches and their  
21 associated costs.

22 (2) A new appliance, except for any plumbing fitting, regulated  
23 under paragraph (1), that is manufactured on or after July 1, 1984,  
24 shall not be sold, or offered for sale, in the state, unless the date  
25 of the manufacture is permanently displayed in an accessible place  
26 on that appliance.

27 (3) During the period of five years after the board has adopted  
28 a standard for a particular appliance under paragraph (1), no  
29 increase or decrease in the minimum level of operating efficiency  
30 required by the standard for that appliance shall become effective,  
31 unless the board adopts other cost-effective measures for that  
32 appliance.

33 (4) Neither the board nor any other state agency shall take any  
34 action to decrease any standard adopted under this subdivision on  
35 or before June 30, 1985, prescribing minimum levels of operating  
36 efficiency or other energy conservation measures for any appliance,  
37 unless the board finds by a four-fifths vote that a decrease is of  
38 benefit to ratepayers, and that there is significant evidence of  
39 changed circumstances. Before January 1, 1986, the board shall  
40 not take any action to increase a standard prescribing minimum

1 levels of operating efficiency for any appliance or adopt a new  
2 standard under paragraph (1). Before January 1, 1986, any  
3 appliance manufacturer doing business in this state shall provide  
4 directly, or through an appropriate trade or industry association,  
5 information, as specified by the board after consultation with  
6 manufacturers doing business in the state and appropriate trade or  
7 industry associations on sales of appliances so that the board may  
8 study the effects of regulations on those sales. These informational  
9 requirements shall remain in effect until the information is received.  
10 The trade or industry association may submit sales information in  
11 an aggregated form in a manner that allows the board to carry out  
12 the purposes of the study. The board and the department shall treat  
13 any sales information of an individual manufacturer as confidential  
14 and that information shall not be a public record. The board shall  
15 not request any information that cannot be reasonably produced  
16 in the exercise of due diligence by the manufacturer. At least one  
17 year prior to the adoption or amendment of a standard for an  
18 appliance, the board shall notify the Legislature of its intent, and  
19 the justification to adopt or amend a standard for the appliance.  
20 Notwithstanding paragraph (3) and this paragraph, the board may  
21 do any of the following:

22 (A) Increase the minimum level of operating efficiency in an  
23 existing standard up to the level of the National Voluntary  
24 Consensus Standards 90, adopted by the American Society of  
25 Heating, Refrigeration, and Air Conditioning Engineers or, for  
26 appliances not covered by that standard, up to the level established  
27 in a similar nationwide consensus standard.

28 (B) Change the measure or rating of efficiency of any standard,  
29 if the minimum level of operating efficiency remains substantially  
30 the same.

31 (C) Adjust the minimum level of operating efficiency in an  
32 existing standard in order to reflect changes in test procedures that  
33 the standards require manufacturers to use in certifying compliance,  
34 if the minimum level of operating efficiency remains substantially  
35 the same.

36 (D) Readopt a standard preempted, enjoined, or otherwise found  
37 legally defective by an administrative agency or a lower court, if  
38 final legal action determines that the standard is valid and if the  
39 standard that is readopted is not more stringent than the standard  
40 that was found to be defective or preempted.

1 (E) Adopt or amend any existing or new standard at any level  
2 of operating efficiency, if the Governor has declared an energy  
3 emergency as described in Section 8558 of the Government Code.

4 (5) Notwithstanding paragraph (4), the board may adopt  
5 standards pursuant to the former State Energy Resources  
6 Conservation and Development Commission Order No. 84-0111-1,  
7 on or before June 30, 1985.

8 (d) Recommend minimum standards of efficiency for the  
9 operation of any new facility at a particular site that are technically  
10 and economically feasible. No site and related facility shall be  
11 certified pursuant to Chapter 6 (commencing with Section 25500),  
12 unless the applicant certifies that standards recommended by the  
13 board have been considered, which certification shall include a  
14 statement specifying the extent to which conformance with the  
15 recommended standards will be achieved.

16 Whenever this section and Chapter 11.5 (commencing with  
17 Section 19878) of Part 3 of Division 13 of the Health and Safety  
18 Code are in conflict, the board shall be governed by that chapter  
19 of the Health and Safety Code to the extent of the conflict.

20 (e) The board shall do all of the following:

21 (1) Not later than January 1, 2004, amend any regulations in  
22 effect on January 1, 2003, pertaining to the energy efficiency  
23 standards for residential clothes washers to require that residential  
24 clothes washers manufactured on or after January 1, 2007, be at  
25 least as water efficient as commercial clothes washers.

26 (2) Not later than April 1, 2004, petition the federal Department  
27 of Energy for an exemption from any relevant federal regulations  
28 governing energy efficiency standards that are applicable to  
29 residential clothes washers.

30 (3) Not later than January 1, 2005, report to the Legislature on  
31 its progress with respect to the requirements of paragraphs (1) and  
32 (2).

33 SEC. 143. Section 25402.1 of the Public Resources Code is  
34 amended to read:

35 25402.1. In order to implement the requirements of subdivisions  
36 (a) and (b) of Section 25402, the department shall do all of the  
37 following:

38 (a) Develop a public domain computer program that will enable  
39 contractors, builders, architects, engineers, and government  
40 officials to estimate the energy consumed by residential and

1 nonresidential buildings. The department may charge a fee for the  
2 use of the program, which fee shall be based upon the actual cost  
3 of the program, including any computer costs.

4 (b) Establish a formal process for certification of compliance  
5 options for new products, materials, and calculation methods which  
6 provides for adequate technical and public review to ensure  
7 accurate, equitable, and timely evaluation of certification  
8 applications. Proponents filing applications for new products,  
9 materials, and calculation methods shall provide all information  
10 needed to evaluate the application that is required by the  
11 department. The department shall publish annually the results of  
12 its certification decisions and instructions to users and local  
13 building officials concerning requirements for showing compliance  
14 with the building standards for new products, materials, or  
15 calculation methods. The department may charge and collect a  
16 reasonable fee from applicants to cover the costs under this  
17 subdivision. Any funds received by the department for purposes  
18 of this subdivision shall be deposited in the Energy Resources  
19 Programs Account and, notwithstanding Section 13340 of the  
20 Government Code, are continuously appropriated to the department  
21 for the purposes of this subdivision. Any unencumbered portion  
22 of funds collected as a fee for an application remaining in the  
23 Energy Resources Programs Account after completion of the  
24 certification process for that application shall be returned to the  
25 applicant within a reasonable period of time.

26 (c) Include a prescriptive method of complying with the  
27 standards, including design aids such as a manual, sample  
28 calculations, and model structural designs.

29 (d) Conduct a pilot project of field testing of actual residential  
30 buildings to calibrate and identify potential needed changes in the  
31 modeling assumptions to increase the accuracy of the public  
32 domain computer program specified in subdivision (a) and to  
33 evaluate the impacts of the standards, including, but not limited  
34 to, the energy savings, cost-effectiveness, and the effects on indoor  
35 air quality. The pilot project shall be conducted pursuant to a  
36 contract entered into by the department. The department shall  
37 consult with the participants designated pursuant to Section 9202  
38 of the Public Utilities Code to seek funding and support for field  
39 monitoring in each public utility service territory, with the  
40 University of California to take advantage of its extensive building

1 monitoring expertise, and with the California Building Industry  
2 Association to coordinate the involvement of builders and  
3 developers throughout the state. The pilot project shall include  
4 periodic public workshops to develop plans and review progress.  
5 The department shall prepare and submit a report to the Legislature  
6 on progress and initial findings not later than December 31, 1988,  
7 and a final report on the results of the pilot project on residential  
8 buildings not later than June 30, 1990. The report shall include  
9 recommendations regarding the need and feasibility of conducting  
10 further monitoring of actual residential and nonresidential  
11 buildings. The report shall also identify any revisions to the public  
12 domain computer program and energy conservation standards if  
13 the pilot project determines that revisions are appropriate.

14 (e) Certify, not later than 180 days after approval of the  
15 standards by the California Building Standards Commission, an  
16 energy conservation manual for use by designers, builders, and  
17 contractors of residential and nonresidential buildings. The manual  
18 shall be furnished upon request at a price sufficient to cover the  
19 costs of production and shall be distributed at no cost to all affected  
20 local agencies. The manual shall contain, but not be limited to, the  
21 following:

22 (1) The standards for energy conservation established by the  
23 board.

24 (2) Forms, charts, tables, and other data to assist designers and  
25 builders in meeting the standards.

26 (3) Design suggestions for meeting or exceeding the standards.

27 (4) Any other information that the department finds will assist  
28 persons in conforming to the standards.

29 (5) Instructions for use of the computer program for calculating  
30 energy consumption in residential and nonresidential buildings.

31 (6) The prescriptive method for use as an alternative to the  
32 computer program.

33 (f) The department shall establish a continuing program of  
34 technical assistance to local building departments in the  
35 enforcement of subdivisions (a) and (b) of Section 25402 and this  
36 section. The program shall include the training of local officials  
37 in building technology and enforcement procedures related to  
38 energy conservation, and the development of complementary  
39 training programs conducted by local governments, educational  
40 institutions, and other public or private entities. The technical

1 assistance program shall include the preparation and publication  
2 of forms and procedures for local building departments in  
3 performing the review of building plans and specifications. The  
4 department shall provide, on a contract basis, a review of building  
5 plans and specifications submitted by a local building department,  
6 and shall adopt a schedule of fees sufficient to repay the cost of  
7 those services.

8 (g) Subdivisions (a) and (b) of Section 25402 and this section,  
9 and the rules and regulations of the board adopted pursuant thereto,  
10 shall be enforced by the building department of every city, county,  
11 or city and county.

12 (1) No building permit for any residential or nonresidential  
13 building shall be issued by a local building department, unless a  
14 review by the building department of the plans for the proposed  
15 residential or nonresidential building contains detailed energy  
16 system specifications and confirms that the building satisfies the  
17 minimum standards established pursuant to subdivision (a) or (b)  
18 of Section 25402 and this section applicable to the building.

19 (2) Where there is no local building department, the department  
20 shall enforce subdivisions (a) and (b) of Section 25402 and this  
21 section.

22 (3) If a local building department fails to enforce subdivisions  
23 (a) and (b) of Section 25402 and this section or any other provision  
24 of this chapter or standard adopted pursuant thereto, the department  
25 may provide enforcement after furnishing 10 days' written notice  
26 to the local building department.

27 (4) A city, county, or city and county may, by ordinance or  
28 resolution, prescribe a schedule of fees sufficient to pay the costs  
29 incurred in the enforcement of subdivisions (a) and (b) of Section  
30 25402 and this section. The department may establish a schedule  
31 of fees sufficient to pay the costs incurred by that enforcement.

32 (5) Construction of a state building shall not commence until  
33 the Department of General Services or the state agency that  
34 otherwise has jurisdiction over the property reviews the plans for  
35 the proposed building and certifies that the plans satisfy the  
36 minimum standards established pursuant to Chapter 2.8  
37 (commencing with Section 15814.30) of Part 10b of Division 3 of  
38 Title 2 of the Government Code, Section 25402, and this section  
39 which are applicable to the building.

1 (h) Subdivisions (a) and (b) of Section 25402 and this section  
2 shall apply only to new residential and nonresidential buildings  
3 on which actual site preparation and construction have not  
4 commenced prior to the effective date of rules and regulations  
5 adopted pursuant to those sections that are applicable to those  
6 buildings. Nothing in those sections shall prohibit either of the  
7 following:

8 (1) The enforcement of state or local energy conservation or  
9 energy insulation standards, adopted prior to the effective date of  
10 rules and regulations adopted pursuant to subdivisions (a) and (b)  
11 of Section 25402 and this section with regard to residential and  
12 nonresidential buildings on which actual site preparation and  
13 construction have commenced prior to that date.

14 (2) The enforcement of city or county energy conservation or  
15 energy insulation standards, whenever adopted, with regard to  
16 residential and nonresidential buildings on which actual site  
17 preparation and construction have not commenced prior to the  
18 effective date of rules and regulations adopted pursuant to  
19 subdivisions (a) and (b) of Section 25402 and this section, if the  
20 city or county files the basis of its determination that the standards  
21 are cost effective with the department and the department finds  
22 that the standards will require the diminution of energy  
23 consumption levels permitted by the rules and regulations adopted  
24 pursuant to those sections. If, after two or more years after the  
25 filing with the department of the determination that those standards  
26 are cost effective, there has been a substantial change in the factual  
27 circumstances affecting the determination, upon application by  
28 any interested party, the city or county shall update and file a new  
29 basis of its determination that the standards are cost effective. The  
30 determination that the standards are cost effective shall be adopted  
31 by the governing body of the city or county at a public meeting.  
32 If, at the meeting on the matter, the governing body determines  
33 that the standards are no longer cost effective, the standards shall,  
34 as of that date, be unenforceable and no building permit or other  
35 entitlement shall be denied based on the noncompliance with the  
36 standards.

37 (i) The department may exempt from the requirements of this  
38 section and of any regulations adopted pursuant thereto any  
39 proposed building for which compliance would be impossible  
40 without substantial delays and increases in cost of construction, if

1 the department finds that substantial funds have been expended in  
2 good faith on planning, designing, architecture, or engineering  
3 prior to the date of adoption of the regulations.

4 (j) If a dispute arises between an applicant for a building permit,  
5 or the state pursuant to paragraph (5) of subdivision (g), and the  
6 building department regarding interpretation of Section 25402 or  
7 the regulations adopted pursuant thereto, either party may submit  
8 the dispute to the board for resolution. The board's determination  
9 of the matter shall be binding on the parties.

10 (k) Nothing in Section 25130, 25131, or 25402, or in this section  
11 prevents enforcement of any regulation adopted pursuant to this  
12 chapter, or Chapter 11.5 (commencing with Section 19878) of Part  
13 3 of Division 13 of the Health and Safety Code as they existed  
14 prior to September 16, 1977.

15 SEC. 144. Section 25402.2 of the Public Resources Code is  
16 amended to read:

17 25402.2. Any standard adopted by the board pursuant to  
18 Sections 25402 and 25402.1, which is a building standard as  
19 defined in Section 25488.5, shall be submitted to the State Building  
20 Standards Commission for approval pursuant to, and is governed  
21 by, the State Building Standards Law (Part 2.5 (commencing with  
22 Section 18901) of Division 13 of the Health and Safety Code).  
23 Building standards adopted by the board and published in the State  
24 Building Standards Code shall be enforced as provided in Sections  
25 25402 and 25402.1.

26 SEC. 145. Section 25402.3 of the Public Resources Code is  
27 amended to read:

28 25402.3. For purposes of subdivision (e) of Section 25402.1,  
29 the department shall contract with California building officials to  
30 establish two regional training centers to provide continuing  
31 education for local building officials and enforcement personnel  
32 as follows:

33 (a) One site shall be located in northern California and one site  
34 shall be located in southern California to serve the needs of the  
35 respective regions.

36 (b) The centers shall provide training on a monthly basis to  
37 ensure a uniform understanding and implementation of the  
38 energy-efficient building standards. Existing resources shall be  
39 used as much as possible by utilizing members of the building  
40 official community in training activities.

1 (c) The centers shall provide similar training sessions, in the  
2 form of workshops given in designated rural areas, to ensure that  
3 adequate training is available throughout the state. The workshops  
4 shall meet all of the following requirements:

5 (1) A minimum of two workshops in northern California and  
6 two workshops in southern California shall be offered each year.

7 (2) The sites shall be selected to ensure the greatest number of  
8 participants will be served in areas of greatest need to decrease  
9 the financial burden on small rural or isolated local government  
10 agencies that would not be able to travel to the regional training  
11 centers for instruction.

12 SEC. 146. Section 25402.4 of the Public Resources Code is  
13 amended to read:

14 25402.4. The standards for nonresidential buildings prescribed  
15 by the board pursuant to subdivisions (a) and (b) of Section 25402  
16 shall provide at least one option which uses passive or semipassive  
17 thermal systems, as defined in Section 25600, for meeting the  
18 prescribed energy use requirements. These systems may include,  
19 but are not limited to, the following construction techniques:

20 (a) Use of skylights or other daylighting techniques.

21 (b) Use of openable windows or other means of using outside  
22 air for space conditioning.

23 (c) Use of building orientation, to complement other passive or  
24 semipassive thermal systems.

25 (d) Use of thermal mass, of structural or nonstructural type, for  
26 storage of heat or cold, including, but not limited to, roof ponds  
27 and water walls.

28 SEC. 147. Section 25402.5 of the Public Resources Code is  
29 amended to read:

30 25402.5. (a) As used in this section, "lighting device" includes,  
31 but is not limited to, a lamp, luminaire, light fixture, lighting  
32 control, ballast, or any component of those devices.

33 (b) (1) The board shall consider both new and replacement,  
34 and both interior and exterior, lighting devices as lighting which  
35 is subject to subdivision (a) of Section 25402.

36 (2) The board shall include both indoor and outdoor lighting  
37 devices as appliances to be considered in prescribing standards  
38 pursuant to paragraph (1) of subdivision (c) of Section 25402.

39 (3) The Legislature hereby finds and declares that paragraphs  
40 (1) and (2) are declarative of existing law.

1 (c) The board shall adopt efficiency standards for outdoor  
2 lighting. The standards shall be technologically feasible and cost  
3 effective. As used in this subdivision, “outdoor lighting” refers to  
4 all electrical lighting that is not subject to standards adopted  
5 pursuant to Section 25402, and includes, but is not limited to,  
6 streetlights, traffic lights, parking lot lighting, and billboard  
7 lighting. The department and the board shall consult with the  
8 Department of Transportation (CALTRANS) to ensure that outdoor  
9 lighting standards that affect CALTRANS are compatible with  
10 that department’s policies and standards for safety and illumination  
11 levels on state highways.

12 SEC. 148. Section 25402.5.4 of the Public Resources Code is  
13 amended to read:

14 25402.5.4. (a) On or before December 31, 2008, the board  
15 shall adopt minimum energy efficiency standards for all general  
16 purpose lights on a schedule specified in the regulations. The  
17 regulations, in combination with other programs and activities  
18 affecting lighting use in the state, shall be structured to reduce  
19 average statewide electrical energy consumption by not less than  
20 50 percent from the 2007 levels for indoor residential lighting and  
21 by not less than 25 percent from the 2007 levels for indoor  
22 commercial and outdoor lighting, by 2018.

23 (b) The board shall make recommendations to the Governor  
24 and the Legislature regarding how to continue reductions in  
25 electrical consumption for lighting beyond 2018.

26 (c) The board may establish programs to encourage the sale in  
27 this state of general purpose lights that meet or exceed the standards  
28 set forth in subdivision (a).

29 (d) (1) Except as provided in paragraph (2), the Department of  
30 General Services, and all other state agencies, as defined in Section  
31 12200 of the Public Contract Code, in coordination with the  
32 department, shall cease purchasing general purpose lights that do  
33 not meet the standards adopted pursuant to subdivision (a), within  
34 two years of those standards being adopted.

35 (2) The Department of General Services, and all other state  
36 agencies, as defined in Section 12200 of the Public Contract Code,  
37 in coordination with the department shall cease purchasing general  
38 purpose lights with an appearance that is historically appropriate  
39 for the facilities in which the lights are being used, and that do not

1 meet the standards adopted pursuant to subdivision (a) within four  
2 years of those standards being adopted.

3 (e) It is the intent of the Legislature to encourage the Regents  
4 of the University of California, in coordination with the department,  
5 to cease purchasing general purpose lights that do not meet the  
6 standards adopted pursuant to subdivision (a), within two years of  
7 those standards being adopted.

8 (f) (1) (A) For purposes of this section, “general purpose lights”  
9 means lamps, bulbs, tubes, or other electric devices that provide  
10 functional illumination for indoor residential, indoor commercial,  
11 and outdoor use.

12 (B) General purpose lights do not include any of the following  
13 types of specialty lighting: appliance, black light, bug, colored,  
14 infrared, left-hand thread, marine, marine signal service, mine  
15 service, plant light, reflector, rough service, shatter resistant, sign  
16 service, silver bowl, showcase, three-way, traffic signal, and  
17 vibration service or vibration resistant.

18 (2) The board may, after one or more public workshops, with  
19 public notice and an opportunity for all interested parties to  
20 comment, provide for inclusion of a particular type of specialty  
21 light in its energy efficiency standards applicable to general  
22 purpose lighting, if it finds that there has been a significant increase  
23 in sales of that particular type of particular specialty light due to  
24 the use of that specialty light in general purpose lighting  
25 applications.

26 (3) General purpose lights do not include lights needed to  
27 provide special-needs lighting for individuals with exceptional  
28 needs.

29 SEC. 149. Section 25402.6 of the Public Resources Code is  
30 amended to read:

31 25402.6. The department shall investigate options and develop  
32 a plan to decrease wasteful peakload energy consumption in  
33 existing residential and nonresidential buildings. On or before  
34 January 1, 2004, the department shall report its findings to the  
35 Legislature, including, but not limited to, any changes in law  
36 necessary to implement the plan to decrease wasteful peakload  
37 energy consumption in existing residential and nonresidential  
38 buildings.

39 SEC. 150. Section 25402.7 of the Public Resources Code is  
40 amended to read:

1 25402.7. (a) In consultation with the department, electric and  
2 gas utilities shall provide support for building standards and other  
3 regulations pursuant to Section 25402 and subdivision (b) of  
4 Section 25553 including appropriate research, development, and  
5 training to implement those standards and other regulations.

6 (b) The electric and gas utilities shall provide support pursuant  
7 to subdivision (a) only to the extent that funds are made available  
8 to the utilities for that purpose.

9 SEC. 151. Section 25402.8 of the Public Resources Code is  
10 amended to read:

11 25402.8. When assessing new building standards for residential  
12 and nonresidential buildings relating to the conservation of energy,  
13 the board shall include in its deliberations the impact that those  
14 standards would have on indoor air pollution problems.

15 SEC. 152. Section 25402.9 of the Public Resources Code is  
16 amended to read:

17 25402.9. (a) On or before July 1, 1996, the department shall  
18 develop, and by action of the board, publish an informational  
19 booklet to educate and inform homeowners, rental property owners,  
20 renters, sellers, brokers, and the general public about the statewide  
21 home energy rating program adopted pursuant to Section 25942.

22 (b) In the development of the booklet, the department shall  
23 consult with representatives of the Department of Real Estate, the  
24 Department of Housing and Community Development, the Public  
25 Utilities Commission, investor-owned and municipal utilities,  
26 cities and counties, real estate licensees, home builders, mortgage  
27 lenders, home appraisers and inspectors, home energy rating  
28 organizations, contractors who provide home energy services,  
29 consumer groups, and environmental groups.

30 (c) The department shall charge a fee for the informational  
31 booklet to recover its costs under subdivision (a).

32 SEC. 153. Section 25403 of the Public Resources Code is  
33 amended to read:

34 25403. The department shall submit to the Public Utilities  
35 Commission and to any publicly owned electric utility,  
36 recommendations designed to reduce wasteful, unnecessary, or  
37 uneconomic energy consumption resulting from practices,  
38 including, but not limited to, differential rate structures,  
39 cost-of-service allocations, the disallowance of a business expense  
40 of advertising or promotional activities that encourage the use of

1 electrical power, peakload pricing, and other pricing measures.  
2 The Public Utilities Commission or publicly owned electric utility  
3 shall review and consider the recommendations and shall, within  
4 six months after the date it receives them, as prescribed by this  
5 section, report to the Governor and the Legislature its actions and  
6 reasons therefor with respect to the recommendations.

7 SEC. 154. Section 25403.5 of the Public Resources Code is  
8 amended to read:

9 25403.5. (a) The board shall, by July 1, 1978, adopt standards  
10 by regulation for a program of electrical load management for each  
11 utility service area. In adopting the standards, the board shall  
12 consider, but need not be limited to, the following load  
13 management techniques:

14 (1) Adjustments in rate structure to encourage use of electrical  
15 energy at off-peak hours or to encourage control of daily electrical  
16 load. Compliance with those adjustments in rate structure shall be  
17 subject to the approval of the Public Utilities Commission in a  
18 proceeding to change rates or service.

19 (2) End-use storage systems which store energy during off-peak  
20 periods for use during peak periods.

21 (3) Mechanical and automatic devices and systems for the  
22 control of daily and seasonal peakloads.

23 (b) The standards shall be cost effective when compared with  
24 the costs for new electrical capacity, and the board shall find them  
25 to be technologically feasible. Any expense or any capital  
26 investment required of a utility by the standards shall be an  
27 allowable expense or an allowable item in the utility rate base and  
28 shall be treated by the Public Utilities Commission as allowable  
29 in a rate proceeding.

30 The board may determine that one or more of the load  
31 management techniques are infeasible and may delay their  
32 adoption. If the board determines that any techniques are infeasible  
33 to implement, it shall make a finding in each instance stating the  
34 grounds upon which the determination was made and the actions  
35 it intends to take to remove the impediments to implementation.

36 (c) The board may also grant, upon application by a utility, an  
37 exemption from the standards or a delay in implementation. The  
38 grant of an exemption or delay shall be accompanied by a statement  
39 of findings by the board indicating the grounds for the exemption  
40 or delay. Exemption or delay shall be granted only upon a showing

1 of extreme hardship, technological infeasibility, lack of  
2 cost-effectiveness, or reduced system reliability and efficiency.

3 (d) This section does not apply to proposed sites and related  
4 facilities for which a notice of intent or an application requesting  
5 certification has been filed with the board prior to the effective  
6 date of the standards.

7 SEC. 155. Section 25403.8 of the Public Resources Code is  
8 amended to read:

9 25403.8. (a) The department shall develop and implement a  
10 program to provide battery backup power for those official traffic  
11 control signals, operated by a city, county, or city and county, that  
12 the department, in consultation with cities, counties, or cities and  
13 counties, determines to be high priority traffic control signals.

14 (b) Based on traffic factors considered by cities, counties, or  
15 cities and counties, including, but not limited to, traffic volume,  
16 number of accidents, and presence of children, the department  
17 shall determine a priority schedule for the installation of battery  
18 backup power for traffic control systems. The department shall  
19 give priority to a city, county, or city and county that did not  
20 receive a grant from the State of California for the installation of  
21 light-emitting diode traffic control signals.

22 (c) The department shall also develop or adopt the necessary  
23 technical criteria as to wiring, circuitry, and recharging units for  
24 traffic control signals. Only light-emitting diodes (LED) traffic  
25 control signals are eligible for battery backup power for the full  
26 operation of the traffic control signal or a flashing red mode. A  
27 city, county, or city and county may apply for a matching grant  
28 for battery backup power for traffic control signals retrofitted with  
29 light-emitting diodes.

30 (d) Based on the criteria described in subdivision (c), the board  
31 shall provide matching grants to cities, counties, and cities and  
32 counties for backup battery systems described in this section in  
33 accordance with the priority schedule established by the department  
34 pursuant to subdivision (b). The board shall provide 70 percent of  
35 the funds for a battery backup system, and the city, county, or city  
36 and county shall provide 30 percent.

37 (e) If a city, county, or city and county has installed a backup  
38 battery system for LED traffic control signals between January 1,  
39 2001, and October 1, 2001, the board may reimburse the city,  
40 county, or city and county for up to 30 percent of the cost incurred

1 for the backup battery system installation. However, the board  
2 may not spend more than one million five hundred thousand dollars  
3 (\$1,500,000) for reimbursements pursuant to this subdivision.

4 SEC. 156. Section 25404 of the Public Resources Code is  
5 amended to read:

6 25404. The department shall cooperate with the Natural  
7 Resources Agency and other interested parties in developing  
8 procedures to ensure that mitigation measures to minimize  
9 wasteful, inefficient, and unnecessary consumption of energy are  
10 included in all environmental impact reports required on local  
11 projects as specified in Section 21151.

12 SEC. 157. Section 25405.5 of the Public Resources Code is  
13 amended to read:

14 25405.5. (a) As used in this section, the following terms have  
15 the following meanings:

16 (1) “kW” means kilowatts or 1,000 watts, as measured from the  
17 alternating current side of the solar energy system inverter  
18 consistent with Section 223 of Title 15 of the United States Code.

19 (2) “Production home” means a single-family residence  
20 constructed as part of a development of at least 50 homes per  
21 project that is intended or offered for sale.

22 (3) “Solar energy system” means a solar energy device that has  
23 the primary purpose of providing for the collection and distribution  
24 of solar energy for the generation of electricity, that produces at  
25 least one kW, and not more than five megawatts, alternating current  
26 rated peak electricity, and that meets or exceeds the eligibility  
27 criteria established pursuant to Section 25782.

28 (b) A seller of production homes shall offer a solar energy  
29 system option to all customers that enter into negotiations to  
30 purchase a new production home constructed on land for which  
31 an application for a tentative subdivision map has been deemed  
32 complete on or after January 1, 2011, and disclose the following:

33 (1) The total installed cost of the solar energy system option.

34 (2) The estimated cost savings associated with the solar energy  
35 system option, as determined by the board pursuant to Chapter 8.8  
36 (commencing with Section 25780) of Division 15.

37 (c) The Department of Energy shall develop an offset program  
38 that allows a developer or seller of production homes to forgo the  
39 offer requirement of this section on a project, by installing solar  
40 energy systems generating specified amounts of electricity on other

1 projects, including, but not limited to, low-income housing,  
2 multifamily, commercial, industrial, and institutional developments.  
3 The amount of electricity required to be generated from solar  
4 energy systems used as an offset pursuant to this subdivision shall  
5 be equal to the amount of electricity generated by solar energy  
6 systems installed on a similarly sized project within that climate  
7 zone, assuming 20 percent of the prospective buyers would have  
8 installed solar energy systems.

9 (d) The requirements of this section shall not operate as a  
10 substitute for the implementation of existing energy efficiency  
11 measures, and the requirements of this section shall not result in  
12 lower energy savings or lower energy efficiency levels than would  
13 otherwise be achieved by the full implementation of energy savings  
14 and energy efficiency standards established pursuant to Section  
15 25402.

16 SEC. 158. Section 25405.6 of the Public Resources Code is  
17 amended to read:

18 25405.6. Not later than July 1, 2007, the department and the  
19 board shall initiate a public proceeding to study and make findings  
20 whether, and under what conditions, solar energy systems should  
21 be required on new residential and new nonresidential buildings,  
22 including the establishment of numerical targets. As part of the  
23 study, the board may determine that a solar energy system should  
24 not be required for any building unless the board determines, based  
25 upon consideration of all costs associated with the system, that the  
26 system is cost effective when amortized over the economic life of  
27 the structure. When determining the cost-effectiveness of the solar  
28 energy system, the board shall consider the availability of  
29 governmental rebates, tax deductions, net metering, and other  
30 quantifiable factors, if the board can determine the availability of  
31 these financial incentives if a solar energy system is made  
32 mandatory and not elective. The department shall periodically  
33 update the study and incorporate any revision that the department  
34 and the board determines is necessary, including revisions that  
35 reflect changes in the financial incentives originally considered  
36 by the board when determining cost-effectiveness of the solar  
37 energy system. For purposes of this section, “solar energy system”  
38 means a photovoltaic solar collector or other photovoltaic solar  
39 energy device that has a primary purpose of providing for the  
40 collection and distribution of solar energy for the generation of

1 electricity. This section is intended to be for study purposes only  
2 and does not authorize the board to develop and adopt any  
3 requirement for solar energy systems on either residential or  
4 nonresidential buildings.

5 SEC. 159. Section 25410.5 of the Public Resources Code is  
6 amended to read:

7 25410.5. The Legislature finds and declares all of the following:

8 (a) Energy costs are frequently the second largest discretionary  
9 expense in a local government's budget. According to the  
10 department, most public institutions could reduce their energy  
11 costs by 20 to 30 percent.

12 (b) A variety of energy conservation measures are available to  
13 local governments. These measures are highly cost effective, often  
14 providing a payback on the initial investment in three years or less.

15 (c) Many local governments lack energy management expertise  
16 and are often unaware of their high energy costs or the  
17 opportunities to reduce those costs.

18 (d) Local governments that desire to reduce their energy costs  
19 through energy conservation and efficiency measures often lack  
20 available funding.

21 (e) Since 1980, the Energy Conservation Assistance Account  
22 has provided \$110 million in loans, through a revolving loan  
23 account, to 600 schools, hospitals, and local governments. The  
24 energy conservation projects funded by the account save  
25 approximately \$35 million annually in energy costs.

26 (f) Local governments and public institutions need assistance  
27 in all aspects of energy efficiency improvements, including, but  
28 not limited to, project identification, project development and  
29 implementation, evaluation of project proposals and options,  
30 operations and maintenance, and troubleshooting of problem  
31 projects.

32 SEC. 160. Section 25410.6 of the Public Resources Code is  
33 amended to read:

34 25410.6. (a) It is the intent of the Legislature that the  
35 department shall administer the State Energy Conservation  
36 Assistance Account to provide grants and loans to local  
37 governments and public institutions to maximize energy use  
38 savings, including, but not limited to, technical assistance,  
39 demonstrations, and identification and implementation of

1 cost-effective energy efficiency measures and programs in existing  
2 and planned buildings or facilities.

3 (b) It is further the intent of the Legislature that the department  
4 seek the assistance of utility companies in providing energy audits  
5 for local governments and public institutions and in publicizing  
6 the availability of State Energy Conservation Assistance Account  
7 funds to qualified entities.

8 SEC. 161. Section 25412 of the Public Resources Code is  
9 amended to read:

10 25412. Any eligible institution may submit an application to  
11 the department for an allocation for the purpose of financing all  
12 or a portion of the costs incurred in implementing a project. The  
13 application shall be in the form and contain the information  
14 incurred in implementing a project that the department shall  
15 prescribe.

16 An application may be for the purpose of financing the eligible  
17 institution's share of the costs that are to be jointly funded through  
18 a state, local, or federal-local program.

19 SEC. 162. Section 25413 of the Public Resources Code is  
20 amended to read:

21 25413. Applications may be approved by the department only  
22 in those instances where the eligible institution has furnished  
23 information satisfactory to the department that the costs of the  
24 project, plus interest on state funds loaned, calculated in accordance  
25 with Section 25415, will be recovered through savings in the cost  
26 of energy to the institution during the repayment period of the  
27 allocation.

28 The savings shall be calculated in a manner prescribed by the  
29 department.

30 SEC. 163. Section 25414 of the Public Resources Code is  
31 amended to read:

32 25414. Annually at the conclusion of each fiscal year, but not  
33 later than October 31, each eligible institution that has received  
34 an allocation pursuant to this chapter shall compute the cost of  
35 energy saved as a result of implementing a project funded by the  
36 allocation. The cost shall be calculated in a manner prescribed by  
37 the department.

38 SEC. 164. Section 25415 of the Public Resources Code is  
39 amended to read:

1 25415. (a) Each eligible institution to which an allocation has  
2 been made under this chapter shall repay the principal amount of  
3 the allocation, plus interest, in not more than 30 equal semiannual  
4 payments, as determined by the department. The first semiannual  
5 payment shall be made on or before December 22 of the fiscal  
6 year following the year in which the project is completed. The  
7 repayment period may not exceed the life of the equipment, as  
8 determined by the department or the lease term of the building in  
9 which the energy conservation measures will be installed.

10 (b) Notwithstanding any other provision of law, the department  
11 shall, unless it determines that the purposes of this chapter would  
12 be better served by establishing an alternative interest rate schedule,  
13 periodically set interest rates on the loans based on surveys of  
14 existing financial markets and at rates not less than 1 percent per  
15 annum.

16 (c) The governing body of each eligible institution shall annually  
17 budget an amount at least sufficient to make the semiannual  
18 payments required in this section. The amount shall not be raised  
19 by the levy of additional taxes but shall instead be obtained by a  
20 savings in energy costs or other sources.

21 SEC. 165. Section 25416 of the Public Resources Code is  
22 amended to read:

23 25416. (a) The State Energy Conservation Assistance Account  
24 is hereby created in the General Fund. Notwithstanding Section  
25 13340 of the Government Code, the account is continuously  
26 appropriated to the department without regard to fiscal year.

27 (b) The money in the account shall consist of all money  
28 authorized or required to be deposited in the account by the  
29 Legislature and all money received by the department pursuant to  
30 Sections 25414 and 25415.

31 (c) The money in the account shall be disbursed by the  
32 Controller for the purposes of this chapter as authorized by the  
33 department.

34 (d) The department may contract and provide grants for services  
35 to be performed for eligible institutions. Services may include, but  
36 are not limited to, feasibility analysis, project design, field  
37 assistance, and operation and training. The amount expended for  
38 those services may not exceed 10 percent of the unencumbered  
39 balance of the account as determined by the department on July 1  
40 of each year.

1 (e) The department may make grants to eligible institutions for  
2 innovative projects and programs. Except as provided in  
3 subdivision (d), the amount expended for grants may not exceed  
4 5 percent of the annual unencumbered balance in the account as  
5 determined by the department on July 1 of each fiscal year.

6 (f) The department may charge a fee for the services provided  
7 under subdivision (d).

8 (g) Notwithstanding any other provision of law, the Controller  
9 may use the State Energy Conservation Assistance Account for  
10 loans to the General Fund as provided in Sections 16310 and 16381  
11 of the Government Code.

12 SEC. 166. Section 25417 of the Public Resources Code is  
13 amended to read:

14 25417. (a) An allocation made pursuant to this chapter shall  
15 be used for the purposes specified in an approved application.

16 (b) In the event that the department determines that an allocation  
17 has been expended for purposes other than those specified in an  
18 approved application, it shall immediately request the return of  
19 the full amount of the allocation. The eligible institution shall  
20 immediately comply with this request.

21 SEC. 167. Section 25417.5 of the Public Resources Code is  
22 amended to read:

23 25417.5. (a) In furtherance of the purposes of the department  
24 as set forth in this chapter, the department has the power and  
25 authority to do all of the following:

26 (1) Borrow money, for the purpose of obtaining funds to make  
27 loans pursuant to this chapter, from the California Economic  
28 Development Financing Authority and the California Infrastructure  
29 and Economic Development Bank from the proceeds of revenue  
30 bonds issued by any of those agencies.

31 (2) Pledge, to provide collateral in connection with the  
32 borrowing of money pursuant to paragraph (1), loans made  
33 pursuant to this chapter or Chapter 5.4 (commencing with Section  
34 25440), or the principal and interest payments on loans made  
35 pursuant to this chapter or Chapter 5.4 (commencing with Section  
36 25440).

37 (3) Sell loans made pursuant to this chapter or Chapter 5.4  
38 (commencing with Section 25440), at prices determined in the  
39 sole discretion of the department, to the California Economic  
40 Development Financing Authority and the California Infrastructure

1 and Economic Development Bank to raise funds to enable the  
2 department to make loans to eligible institutions.

3 (4) Enter into loan agreements or other contracts necessary or  
4 appropriate in connection with the pledge or sale of loans pursuant  
5 to paragraph (2) or (3), or the borrowing of money as provided in  
6 paragraph (1), containing any provisions that may be required by  
7 the California Economic Development Financing Authority, the  
8 California Infrastructure and Economic Development Bank, or the  
9 department as conditions of issuing bonds to fund loans to, or the  
10 purchase of loans from, the department.

11 (b) In connection with the pledging of loans, or of the principal  
12 and interest payment on loans, pursuant to paragraph (2) of  
13 subdivision (a), the department may enter into pledge agreements  
14 setting forth the terms and conditions pursuant to which the  
15 department is pledging loans or the principal and interest payment  
16 on loans, and may also agree to have the loans held by bond  
17 trustees or by independent collateral or escrow agents and to direct  
18 that payments received on those loans be paid to those trustee,  
19 collateral, or escrow agents.

20 (c) The department may employ financial consultants, legal  
21 advisers, accountants, and other service providers, as may be  
22 necessary in its judgment, in connection with activities pursuant  
23 to this chapter.

24 (d) Notwithstanding any other provision of law, this chapter  
25 provides a complete, separate, additional, and alternative method  
26 for implementing the measures authorized by this chapter,  
27 including the authority of the eligible institutions or local  
28 jurisdictions to have borrowed and to borrow in the future pursuant  
29 to loans made pursuant to this chapter or Chapter 5.4 (commencing  
30 with Section 25440), and is supplemental and additional to powers  
31 conferred by other laws.

32 SEC. 168. Section 25419 of the Public Resources Code is  
33 amended to read:

34 25419. In addition to the powers specifically granted to the  
35 department by the other provisions of this chapter, the department  
36 shall have the following powers:

37 (a) To establish qualifications and priorities, consistent with the  
38 objectives of this chapter, for making allocations.

39 (b) To establish procedures and policies as may be necessary  
40 for the administration of this chapter.

1 SEC. 169. Section 25420 of the Public Resources Code is  
2 amended to read:

3 25420. The department may expend from the State Energy  
4 Conservation Assistance Account an amount to pay for the actual  
5 administrative costs incurred by the department pursuant to this  
6 chapter. The amount shall not exceed 5 percent of the annual  
7 unencumbered balance in the account as determined by the  
8 department on July 1 of each fiscal year, to be used to defray costs  
9 incurred by the department for allocations made by the department  
10 pursuant to this chapter.

11 SEC. 170. Section 25422 of the Public Resources Code is  
12 amended to read:

13 25422. (a) Federal funds available to the department pursuant  
14 to Chapter 5.6 (commencing with Section 25460) may be used by  
15 the department to augment funding for grants and loans pursuant  
16 to this chapter. Any federal funds used for loans shall, when repaid,  
17 be deposited into the Energy Conservation Assistance Account  
18 and used to make additional loans pursuant to this chapter.

19 (b) A separate subaccount shall be established within the Energy  
20 Conservation Assistance Account to track the award and repayment  
21 of loans from federal funds, including any interest earnings, in  
22 accordance with the federal American Recovery and Reinvestment  
23 Act of 2009 (Public Law 111-5).

24 SEC. 171. Section 25426 of the Public Resources Code is  
25 amended to read:

26 25426. As used in this article, the following terms have the  
27 following meanings:

28 (a) “Commercial refrigeration” means a refrigerator that is not  
29 a federally regulated consumer product.

30 (b) “Energy-efficient model” means any appliance that meets  
31 the efficiency standards of the United States Department of Energy  
32 that are effective on and after July 1, 2001, and, if applicable,  
33 products certified as energy-efficient zone heating products by the  
34 board.

35 (c) “Small business” means any small business as defined in  
36 paragraph (1) of subdivision (d) of Section 14837 of the  
37 Government Code.

38 SEC. 172. Section 25433 of the Public Resources Code is  
39 amended to read:

1 25433. It is the intent of the Legislature to establish incentives  
2 in the form of grants and loans to low-income residents, small  
3 businesses, and residential property owners for constructing and  
4 retrofitting buildings to be more energy efficient by using design  
5 elements, including, but not limited to, energy-efficient siding,  
6 insulation, products certified as energy-efficient zone heating  
7 products by the board within the department, and double-paned  
8 windows.

9 SEC. 173. Section 25433.5 of the Public Resources Code is  
10 amended to read:

11 25433.5. (a) The department, in consultation with the Public  
12 Utilities Commission, shall do both of the following for the purpose  
13 of full or partial funding of an eligible construction or retrofit  
14 project:

15 (1) Establish a grant program to provide financial assistance to  
16 eligible low-income individuals.

17 (2) Establish a 2-percent interest per annum loan program to  
18 provide financial assistance to a small business owner, residential  
19 property owner, or individual who is not eligible for a grant  
20 pursuant to paragraph (1). The loans shall be available to a small  
21 business owner who has a gross annual income that does not exceed  
22 one hundred thousand dollars (\$100,000) or to an individual or  
23 residential property owner who has a gross annual household  
24 income that does not exceed one hundred thousand dollars  
25 (\$100,000).

26 (b) (1) The department shall use the design guidelines adopted  
27 pursuant to paragraph (2) of subdivision (f) of Section 14 of  
28 Chapter 8 of the Statutes of the First Extraordinary Session of 2001  
29 as standards to determine eligible energy-efficiency projects.

30 (2) The award of a grant pursuant to this section is subject to  
31 appeal to the department upon a showing that the department  
32 applied factors, other than those adopted by the department, in  
33 making the award.

34 (3) The grant or loan recipient shall commit to using the grant  
35 or loan for the purpose for which the grant or loan was awarded.

36 (4) Any action taken by an applicant to apply for, or to become  
37 or remain eligible to receive, a grant award, including satisfying  
38 conditions specified by the department, does not constitute the  
39 rendering of goods, services, or a direct benefit to the department.

1 (5) The amount of any grant awarded pursuant to this article to  
2 a low-income individual does not constitute income for purposes  
3 of calculating the recipient’s gross income for the tax year during  
4 which the grant is received.

5 SEC. 174. Section 25434 of the Public Resources Code is  
6 amended to read:

7 25434. The department may contract with one or more business  
8 entities capable of supplying or providing goods or services  
9 necessary for the department to carry out the responsibilities for  
10 the programs conducted pursuant to this article, and shall contract  
11 with one or more business entities to evaluate the effectiveness of  
12 the programs implemented pursuant to subdivision (a) of Section  
13 25433.5. The department may select an entity on a sole source  
14 basis for one or both of those purposes if the cost to the state will  
15 be reasonable and the department determines that it is in the best  
16 interest of the state.

17 SEC. 175. Section 25434.5 of the Public Resources Code is  
18 amended to read:

19 25434.5. As used in this article, the following terms have the  
20 following meanings:

21 (a) “Eligible construction or retrofit project” means a project  
22 for making improvements to a home or building in existence on  
23 April 12, 2001, through an addition, alteration, or repair, which  
24 effectively increases the energy efficiency or reduces the energy  
25 consumption of the home or building as specified by the  
26 departmental guidelines under paragraph (2) of subdivision (f) of  
27 Section 14 of Chapter 8 of the Statutes of the First Extraordinary  
28 Session of 2001. The improvements shall be deemed to be cost  
29 effective.

30 (b) “Low income” means an individual with a gross annual  
31 income equal to or less than 200 percent of the federal poverty  
32 level.

33 (c) “Small business” means any small business as defined in  
34 paragraph (1) of subdivision (d) of Section 14837 of the  
35 Government Code.

36 SEC. 176. Article 3 (commencing with Section 25435) of  
37 Chapter 5.3 of Division 15 of the Public Resources Code is  
38 repealed.

39 SEC. 177. Section 25441 of the Public Resources Code is  
40 amended to read:

1 25441. The department shall provide financial assistance to  
2 local jurisdictions for the purpose of providing staff training and  
3 support services, including, but not limited to, planning design,  
4 permitting, energy conservation, comprehensive energy  
5 management, project evaluation, and development of alternative  
6 energy resources.

7 SEC. 178. Section 25442 of the Public Resources Code is  
8 amended to read:

9 25442. The department shall provide loans to local jurisdictions  
10 for all of the following purposes:

11 (a) Purchase, maintenance, and evaluation of energy-efficient  
12 peak load reduction equipment for existing or planned facilities,  
13 including, but not limited to, equipment related to lights, motors,  
14 pumps, water and wastewater systems, boilers, heating, and  
15 air-conditioning.

16 (b) Purchase, maintenance, and evaluation of small power  
17 production systems, including, but not limited to, wind,  
18 cogeneration, photovoltaics, geothermal, and hydroelectric systems.

19 (c) Improvement of the operating efficiency of existing local  
20 transportation systems.

21 SEC. 179. Section 25442.5 of the Public Resources Code is  
22 amended to read:

23 25442.5. The department may award financial assistance for  
24 project audits, feasibility studies, engineering and design, and legal  
25 and financial analysis related to the purposes of Section 25442.

26 SEC. 180. Section 25442.7 of the Public Resources Code is  
27 amended to read:

28 25442.7. (a) Loans under this article may not exceed five  
29 million dollars (\$5,000,000) for any one local jurisdiction unless  
30 the department determines that the public interest and objectives  
31 of this chapter would be better served at a higher loan amount.

32 (b) Loan repayments shall be made in accordance with a  
33 schedule established by the department. Repayment of loans shall  
34 be made in full unless the department determines that the public  
35 interest and objectives of this chapter would be better served by  
36 negotiating a reduced loan repayment for a project that fails to  
37 meet the technical or financial performance criteria through no  
38 fault of the local jurisdiction.

39 SEC. 181. Section 25443 of the Public Resources Code is  
40 amended to read:

1 25443. (a) Principal and interest payments on loans under this  
2 article shall be returned to the department and shall be used to  
3 make additional loans to local jurisdictions pursuant to Section  
4 25442 or to provide financial assistance to local jurisdictions  
5 pursuant to Section 25441.

6 (b) Notwithstanding any other provision of law, the department  
7 shall, unless it determines that the purposes of this chapter would  
8 be better served by establishing an alternative interest rate schedule,  
9 periodically set interest rates on the loans based on surveys of  
10 existing financial markets and at rates not less than 3 percent per  
11 annum.

12 SEC. 182. Section 25443.5 of the Public Resources Code is  
13 amended to read:

14 25443.5. (a) In furtherance of the purposes of the department  
15 as set forth in this chapter, the department has the power and  
16 authority to do all of the following:

17 (1) Borrow money, for the purpose of obtaining funds to make  
18 loans pursuant to this chapter, from the California Economic  
19 Development Financing Authority and the California Infrastructure  
20 and Economic Development Bank from the proceeds of revenue  
21 bonds issued by either of those agencies.

22 (2) Pledge, to provide collateral in connection with the  
23 borrowing of money pursuant to paragraph (1), loans made  
24 pursuant to this chapter or Chapter 5.2 (commencing with Section  
25 25410), or the principal and interest payments on loans made  
26 pursuant to this chapter or Chapter 5.2 (commencing with Section  
27 25410).

28 (3) Sell loans made pursuant to this chapter or Chapter 5.2  
29 (commencing with Section 25410), at prices determined in the  
30 sole discretion of the department, to the California Economic  
31 Development Financing Authority and the California Infrastructure  
32 and Economic Development Bank to raise funds to enable the  
33 department to make loans to eligible institutions.

34 (4) Enter into loan agreements or other contracts necessary or  
35 appropriate in connection with the pledge or sale of loans pursuant  
36 to paragraph (2) or (3), or the borrowing of money as provided in  
37 paragraph (1), containing any provisions that may be required by  
38 the California Economic Development Financing Authority, the  
39 California Infrastructure and Economic Development Bank, or the

1 department as conditions of issuing bonds to fund loans to, or the  
2 purchase of loans from, the department.

3 (b) In connection with the pledging of loans, or of the principal  
4 and interest payment on loans, pursuant to paragraph (2) of  
5 subdivision (a), the department may enter into pledge agreements  
6 setting forth the terms and conditions pursuant to which the  
7 department is pledging loans or the principal and interest payment  
8 on loans, and may also agree to have the loans held by bond  
9 trustees or by independent collateral or escrow agents and to direct  
10 that payments received on those loans be paid to those trustee,  
11 collateral, or escrow agents.

12 (c) The department may employ financial consultants, legal  
13 advisers, accountants, and other service providers, as may be  
14 necessary in its judgment, in connection with activities pursuant  
15 to this chapter.

16 (d) Notwithstanding any other provision of law, this chapter  
17 provides a complete, separate, additional, and alternative method  
18 for implementing the measures authorized by this chapter,  
19 including the authority of the eligible institutions or local  
20 jurisdictions to have borrowed and to borrow in the future pursuant  
21 to loans made pursuant to this chapter or Chapter 5.2 (commencing  
22 with Section 25410), and is supplemental and additional to powers  
23 conferred by other laws.

24 SEC. 183. Section 25445 of the Public Resources Code is  
25 amended to read:

26 25445. The department shall design a local jurisdiction energy  
27 assistance program for the purpose of providing financial assistance  
28 under Article 2 (commencing with Section 25441) and providing  
29 loans under Article 3 (commencing with Section 25442). A local  
30 jurisdiction's energy assistance program shall be funded through  
31 the department's existing local government assistance programs,  
32 except that if a project is not eligible for funding under an existing  
33 program, the department may fund the project under this chapter.

34 SEC. 184. Section 25449 of the Public Resources Code is  
35 amended to read:

36 25449. (a) The department shall enter into an agreement with  
37 the Regents of the University of California, the Trustees of the  
38 California State University, and the Board of Governors of the  
39 California Community Colleges for the expenditure of petroleum  
40 violation escrow funds to supplement, and not supplant, other

1 available funds to improve energy efficiency at state-supported  
2 universities and colleges under their respective jurisdictions by  
3 funding projects involving any of the following:

- 4 (1) Data collection.
- 5 (2) Establishment of operations and maintenance standards.
- 6 (3) Staff training.
- 7 (4) Ongoing energy equipment maintenance.
- 8 (5) Projects involving heating, ventilation, air-conditioning, and  
9 lighting equipment.

10 (b) This section shall remain in effect only until January 1,  
11 2014, and as of that date is repealed, unless a later enacted statute,  
12 that is enacted before January 1, 2014, deletes or extends that date.

13 SEC. 185. Section 25449.1 of the Public Resources Code is  
14 amended to read:

15 25449.1. The department shall enter into an agreement with  
16 the State Department of Education to expend petroleum violation  
17 escrow funds to supplement, and not supplant, other available  
18 funds in order to provide loans to school districts to purchase,  
19 maintain, and evaluate energy-efficient equipment and small power  
20 production systems.

21 SEC. 186. Section 25449.2 of the Public Resources Code is  
22 amended to read:

23 25449.2. Not later than three years after the imposition of any  
24 fees pursuant to this chapter, the department shall report to the  
25 Legislature in the biennial energy conservation report required by  
26 Section 25401.1, on the effect of those fees on alternative public  
27 and private financing for public sector programs.

28 SEC. 187. Section 25449.3 of the Public Resources Code is  
29 amended to read:

30 25449.3. (a) The Local Jurisdiction Energy Assistance Account  
31 is hereby created in the General Fund. All money appropriated for  
32 purposes of this chapter and all money received from local  
33 jurisdictions from loan repayments shall be deposited in the account  
34 and disbursed by the Controller as authorized by the department.

35 (b) The department may charge a fee for the services provided  
36 under this chapter.

37 (c) The department may contract for services to be performed  
38 by eligible institutions, as defined in subdivision (c) of Section  
39 25411. Those services may include, but are not limited to,  
40 performance of a feasibility analysis, and providing project design,

1 field evaluation, and operation and training assistance. The amount  
2 expended for contract services may not exceed 10 percent of the  
3 annual scheduled loan repayment to the Local Jurisdiction Energy  
4 Assistance Account, as determined by the department not later  
5 than July 1 of each fiscal year.

6 SEC. 188. Section 25449.4 of the Public Resources Code is  
7 amended to read:

8 25449.4. (a) Except as provided in subdivision (b), this chapter  
9 shall remain in effect until January 1, 2011, and as of that date is  
10 repealed, unless a later enacted statute which is enacted before  
11 January 1, 2011, deletes or extends that date.

12 (b) All loans outstanding as of January 1, 2011, shall continue  
13 to be repaid in accordance with a schedule established by the  
14 department pursuant to Section 25442.7, until paid in full. All  
15 unexpended funds in the Local Jurisdiction Energy Assistance  
16 Account on January 1, 2011, and thereafter, except to the extent  
17 that those funds are encumbered pursuant to Section 25443.5, shall  
18 be deposited in the Federal Trust Fund and be available for the  
19 purposes for which federal oil overcharge funds are available  
20 pursuant to court judgment or federal agency order.

21 SEC. 189. Section 25450 of the Public Resources Code is  
22 amended to read:

23 25450. (a) The Legislature finds and declares all of the  
24 following:

25 (1) The cost of energy in California is increasing and creating  
26 greater demands on local governments' operating budgets.

27 (2) The 110th Congress enacted the Energy Independence and  
28 Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) that provides  
29 energy efficiency and conservation block grants to eligible entities,  
30 including states, to reduce fossil fuel emissions, improve energy  
31 efficiency, and reduce overall energy use.

32 (3) Section 545(c)(1)(A) of the Energy Independence and  
33 Security Act of 2007 (42 U.S.C. Sec. 17155(c)(1)(A)) mandates  
34 that states receiving block grants under the act use not less than  
35 60 percent of the grant amount to provide subgrants to local  
36 governments that are not eligible entities for the purposes of the  
37 act.

38 (4) The 111th Congress enacted the American Recovery and  
39 Reinvestment Act of 2009 (Public Law 111-5) that appropriates  
40 funds for energy efficiency and conservation, water conservation,

1 home weatherization, green workforce development, and renewable  
2 energy.

3 (b) It is the intent of the Legislature to fully implement the  
4 requirements for, and achieve the purposes of, the energy and  
5 conservation block grants provided pursuant to the Energy  
6 Independence and Security Act of 2007 and the American Recovery  
7 and Reinvestment Act of 2009 (Public Law 111-5), in the most  
8 expedient manner possible, and that the funds allocated to the state  
9 pursuant to those acts be administered by the department.  
10 Moreover, to the extent possible without causing undue delay, the  
11 department shall look to the Energy Independence and Security  
12 Act of 2007 and the American Recovery and Reinvestment Act  
13 of 2009 programs and make policy decisions that leverage and  
14 maximize the use of these dollars, including, but not limited to,  
15 the areas of energy efficiency, renewable energy, water efficiency,  
16 weatherization, and green workforce development.

17 (c) It is the intent of the Legislature to strive to maximize the  
18 opportunity to allocate funds toward the most cost-effective energy  
19 efficiency projects, and when allocating funds toward  
20 administration, the department should use the allowable  
21 administrative expenses specified in Section 545(c)(4) of the  
22 Energy Independence and Security Act of 2007 (42 U.S.C. Sec.  
23 17155(c)(4)) as a ceiling and improve efficiencies to allocate less  
24 than the allowable amount.

25 SEC. 190. Section 25450.1 of the Public Resources Code is  
26 amended to read:

27 25450.1. The department, by action of the board, shall  
28 administer the funds allocated to and received by the state pursuant  
29 to the Energy Independence and Security Act of 2007 (42 U.S.C.  
30 Sec. 17001 et seq.) and the American Recovery and Reinvestment  
31 Act of 2009 (Public Law 111-5) for the Energy Efficiency and  
32 Conservation Block Grant Program established pursuant to Section  
33 542 of the Energy Independence and Security Act of 2007 (42  
34 U.S.C. Sec. 17152), and may use the federal funds to award  
35 contracts, grants, and loans as expeditiously as possible consistent  
36 with those acts.

37 SEC. 191. Section 25450.3 of the Public Resources Code is  
38 amended to read:

39 25450.3. The department shall not exceed the amount specified  
40 in Section 545(c)(4) of the Energy Independence and Security Act

1 of 2007 (42 U.S.C. Sec. 17155(c)(4)) for administrative expenses,  
2 which include, but are not limited to, reporting, recordkeeping,  
3 and evaluation activities required by the Energy Independence and  
4 Security Act of 2007 (42 U.S.C. Section 17001 et seq.), the  
5 American Recovery and Reinvestment Act of 2009 (Public Law  
6 111-5), and implementing regulations and guidelines, that govern  
7 or fund the Energy Efficiency and Conservation Block Grant  
8 Program, and the combined administration program costs, indirect  
9 costs, overhead, and costs associated with the Statewide Cost  
10 Allocation Plan.

11 SEC. 192. Section 25450.4 of the Public Resources Code is  
12 amended to read:

13 25450.4. The department, by action of the board, may award  
14 contracts, grants, and loans pursuant to this chapter, unless  
15 otherwise prohibited by the Energy Independence and Security  
16 Act of 2007 (42 U.S.C. Sec. 17001 et seq.), the American Recovery  
17 and Reinvestment Act of 2009 (Public Law 111-5), implementing  
18 regulations and guidelines.

19 SEC. 193. Section 25450.5 of the Public Resources Code is  
20 amended to read:

21 25450.5. (a) The department, by action of the board, may adopt  
22 guidelines governing the award, eligibility, and administration of  
23 funding pursuant to the American Recovery and Reinvestment Act  
24 of 2009 (Public Law 111-5) at a publicly noticed meeting offering  
25 all interested parties an opportunity to comment. The board shall  
26 provide written public notice of not less than 30 days for the initial  
27 adoption of guidelines. Substantive changes to the guidelines shall  
28 not be adopted without 15-day written notice to the public.  
29 Notwithstanding any other provision of law, any guidelines adopted  
30 pursuant to this chapter shall be exempt from the requirements of  
31 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
32 3 of Title 2 of the Government Code.

33 (b) Grants and loans made pursuant to this chapter are subject  
34 to appeal to the board upon a showing that factors other than those  
35 described in the guidelines adopted by the board were applied in  
36 making the awards and payments.

37 SEC. 194. Section 25460 of the Public Resources Code is  
38 amended to read:

39 25460. (a) The Legislature finds and declares that the 111th  
40 Congress enacted the American Recovery and Reinvestment Act

1 of 2009 (Public Law 111-5) that appropriates funds for various  
2 energy programs administered by the department.

3 (b) It is the intent of the Legislature that the department, by  
4 action of the board, should have the authority to award contracts,  
5 grants, and loans from funds received pursuant to the American  
6 Recovery and Reinvestment Act of 2009 and to make the awards  
7 as expeditiously as possible.

8 SEC. 195. Section 25461 of the Public Resources Code is  
9 amended to read:

10 25461. (a) Except as provided in Chapter 5.5 (commencing  
11 with Section 25450), the department shall administer federal funds  
12 allocated to, and received by, the state for energy-related projects  
13 pursuant to the American Recovery and Reinvestment Act of 2009  
14 (Public Law 111-5) or federal acts related to the American  
15 Recovery and Reinvestment Act of 2009.

16 (b) Unless otherwise prohibited by the American Recovery and  
17 Reinvestment Act of 2009 (Public Law 111-5) or subsequent  
18 federal acts related to the American Recovery and Reinvestment  
19 Act of 2009, the department, by action of the board, may use the  
20 federal funds to award contracts, grants, and loans for energy  
21 efficiency, energy conservation, renewable energy, and other  
22 energy-related projects and activities authorized by the American  
23 Recovery and Reinvestment Act of 2009 or subsequent federal  
24 acts related to the American Recovery and Reinvestment Act of  
25 2009.

26 SEC. 196. Section 25462 of the Public Resources Code is  
27 amended to read:

28 25462. (a) The department, by action of the board, may adopt  
29 guidelines governing the award, eligibility, and administration of  
30 funding pursuant to this chapter at a publicly noticed meeting  
31 offering all interested parties an opportunity to comment. The  
32 board shall provide written public notice of not less than 30 days  
33 for the initial adoption of guidelines. Substantive changes to the  
34 guidelines shall not be adopted without 15-day written notice to  
35 the public. Notwithstanding any other provision of law, any  
36 guidelines adopted pursuant to this chapter shall be exempt from  
37 the requirements of Chapter 3.5 (commencing with Section 11340)  
38 of Part 1 of Division 3 of Title 2 of the Government Code.

39 (b) Grants and loans made pursuant to this chapter are subject  
40 to appeal to the board upon a showing that factors other than those

1 described in the guidelines adopted by the board were applied in  
2 making the awards and payments.

3 SEC. 197. Section 25463 of the Public Resources Code is  
4 amended to read:

5 25463. (a) Notwithstanding any other provision of this  
6 division, federal funds available to the department pursuant to this  
7 chapter may be used by the department, by action of the board, to  
8 augment funding for any programs or measures authorized by this  
9 division unless otherwise prohibited by the American Recovery  
10 and Reinvestment Act of 2009 (Public Law 111-5). The department  
11 may administer any funds used to augment other programs using  
12 the procedures of the augmented program consistent with  
13 applicable federal law.

14 (b) This section shall be liberally construed to maximize the  
15 department's and the board's ability to utilize and award federal  
16 funds expeditiously and in accordance with the American Recovery  
17 and Reinvestment Act of 2009 or federal acts related to the  
18 American Recovery and Reinvestment Act of 2009.

19 SEC. 198. Section 25470 of the Public Resources Code is  
20 amended to read:

21 25470. As used in this chapter:

22 (a) "Act" means the federal American Recovery and  
23 Reinvestment Act of 2009 (Public Law 111-5).

24 (b) "Allocation" means a loan of funds by the Department of  
25 General Services pursuant to the procedures specified in this  
26 chapter.

27 (c) "Building" means any existing structure that includes a  
28 heating or cooling system, or both. Additions to an existing  
29 building shall be considered part of that building rather than a  
30 separate building.

31 (d) "Energy audit" means a determination of the energy  
32 consumption characteristics of a building that does all of the  
33 following:

34 (1) Identifies the type, size, and energy use level of the building  
35 and the major energy using systems of the building.

36 (2) Determines appropriate energy conservation maintenance  
37 and operating procedures.

38 (3) Indicates the need, if any, for the acquisition and installation  
39 of energy conservation measures.

1 (e) “Energy conservation maintenance and operating procedure”  
2 means a modification or modifications in the maintenance and  
3 operations of a building, and any installations therein, based on  
4 the use time schedule of the building that are designed to reduce  
5 energy consumption in the building and that require no significant  
6 expenditure of funds.

7 (f) “Energy conservation measure” means an installation or  
8 modification of an installation in a building that is primarily  
9 intended to reduce energy consumption or allow the use of a more  
10 cost-effective energy source.

11 (g) “Energy conservation project” means an undertaking to  
12 acquire and to install one or more energy conservation measures  
13 in a building, and technical assistance in connection with that  
14 undertaking.

15 (h) “Fund” means the Energy Efficient State Property Revolving  
16 Fund.

17 (i) “Project” means a purpose for which an allocation may be  
18 requested and made under this chapter. Those purposes shall  
19 include energy audits, energy conservation and operating  
20 procedures, and energy conservation measures in existing  
21 buildings, and energy conservation projects.

22 (j) “State agency” means a unit of state government, including  
23 any department, agency, board, or commission under the State of  
24 California.

25 (k) “State-owned building” means a building that is primarily  
26 occupied by offices or agencies of a unit of state government and  
27 includes those properties owned by the State of California.

28 SEC. 199. Section 25471 of the Public Resources Code is  
29 amended to read:

30 25471. (a) There is hereby created in the State Treasury the  
31 Energy Efficient State Property Revolving Fund for the purpose  
32 of implementing this chapter. Notwithstanding Section 13340 of  
33 the Government Code, the money in this fund is continuously  
34 appropriated to the Department of General Services, without regard  
35 to fiscal years, for loans for projects on state-owned buildings and  
36 facilities to achieve greater, long-term energy efficiency, energy  
37 conservation, and energy cost and use avoidance.

38 (b) The fund shall be administered by the Department of General  
39 Services. The Department of General Services may use other  
40 funding sources to leverage project loans.

1 (c) For the 2009–10 fiscal year, the sum of twenty-five million  
2 dollars (\$25,000,000) shall be transferred into the Energy Efficient  
3 State Property Revolving Fund from money received by the  
4 department pursuant to the act to be used for purposes of the federal  
5 State Energy Program.

6 (d) The Controller shall disburse moneys in the fund for the  
7 purposes of this chapter, as authorized by the Department of  
8 General Services.

9 (e) Moneys in the fund, including all interest earnings, shall be  
10 clearly delineated and distinctly accounted for in accordance with  
11 the requirements of the act.

12 SEC. 200. Section 25472 of the Public Resources Code is  
13 amended to read:

14 25472. (a) The Department of General Services, in consultation  
15 with the department, shall establish a process by which projects  
16 are identified and funding is allocated.

17 (b) Beginning July 1, 2009, the Department of General Services  
18 shall use money in the fund for projects that will improve long-term  
19 energy efficiency and increase energy use savings.

20 (c) The Department of General Services shall comply with the  
21 requirements of the act and implementing guidelines of the  
22 department, including, but not limited to, performance metrics,  
23 data collection, and reporting. All projects must be consistent with  
24 these requirements and guidelines.

25 (d) Funding prioritization shall be granted to those projects that  
26 are cost effective and will yield immediate and sustainable energy  
27 efficiency, energy conservation, energy use cost savings, and cost  
28 avoidance.

29 (e) The Department of General Services shall fund allowable  
30 projects through a loan to the appropriate state agency or agencies  
31 occupying the building or facility for which the project will be  
32 performed.

33 (f) The Department of General Services shall determine a  
34 reasonable loan repayment schedule that may not exceed the life  
35 of the energy conservation measure equipment, as determined by  
36 the Department of General Services, or the lease term of the  
37 building in which the energy conservation measure is installed.

38 (g) Maximum loan amounts shall be based on estimated energy  
39 cost savings that will allow state agencies to repay loan principal

1 and interest within the maximum repayment term specified in this  
2 section.

3 (h) The Department of General Services shall periodically set  
4 interest rates on the loans based on surveys of existing financial  
5 markets and at rates of not less than 1 percent per annum.

6 (i) Annual loan repayment amounts shall be structured so as to  
7 reflect the projected annualized energy cost avoidance estimated  
8 from the completed project. The Department of General Services  
9 may utilize a direct billing methodology to recover loan repayments  
10 for completed projects.

11 SEC. 201. Section 25473 of the Public Resources Code is  
12 amended to read:

13 25473. (a) On or before January 1, 2010, and annually  
14 thereafter, the Department of General Services, in collaboration  
15 with the department, shall submit to the Legislature's fiscal and  
16 appropriate policy committees a report that includes an initial list  
17 of projects identified and planned for the 2009–10 fiscal year, and  
18 for each fiscal year thereafter. The report also shall include the  
19 anticipated cost of each project, an analysis of the results of the  
20 methodology, and an estimate of energy savings to be achieved.

21 (b) On or before July 1, 2010, the Department of General  
22 Services, in collaboration with the department, shall submit to the  
23 Legislature an update to the January 1, 2010, report.

24 SEC. 202. Section 25474 of the Public Resources Code is  
25 amended to read:

26 25474. (a) Any repayment of loans made pursuant to this  
27 chapter, including interest payments, and all interest earnings on  
28 or accruing to, any money resulting from the implementation of  
29 this chapter in the Energy Efficient State Property Revolving Fund,  
30 shall be deposited in that fund and shall be available for the  
31 purposes of this chapter.

32 (b) The Department of General Services may recover costs of  
33 administering the projects and related costs through energy utility  
34 rebates awarded to the state agency as a result of completed projects  
35 up to 5 percent of the project loan amounts. Project costs can  
36 include energy efficiency improvements and costs associated with  
37 managing the project and administering the loan program, including  
38 all reporting requirements.

39 SEC. 203. Section 25494 of the Public Resources Code is  
40 amended to read:

1 25494. Not later than July 31, 1978, the department shall  
2 prepare a manual outlining a methodology by which governmental  
3 agencies and the general public may at their option compare the  
4 life cycle costs of various building design alternatives. This manual  
5 will provide the information and procedures necessary to evaluate  
6 a building's life cycle costs in the microclimate and utility service  
7 area where it is to be built.

8 SEC. 204. Section 25495 of the Public Resources Code is  
9 amended to read:

10 25495. No later than July 31, 1978, the department shall  
11 develop design guidelines for new construction which include  
12 energy conserving options, including, but not limited to, the use  
13 of daylighting, heating ventilation and air-conditioning economizer  
14 cycles, natural ventilation, building envelope solar heat gain control  
15 mechanisms, and alternative energy systems such as solar energy  
16 for space heating and water heating and load management  
17 strategies. These guidelines and the cost analysis done pursuant  
18 to Section 25494 may be considered by government agencies at  
19 their option for ultimate selection of a building design in the  
20 competitive bidding process.

21 SEC. 205. Section 25496 of the Public Resources Code is  
22 amended to read:

23 25496. No later than July 1, 1978, the department shall develop  
24 and make available to government agencies and the general public  
25 to be utilized at their option lighting standards for existing  
26 buildings. These standards shall address, but not be limited to, task  
27 and general area lighting levels, light switching and control  
28 mechanisms, and lighting energy budgets. The department may  
29 provide advice and recommendations to the public or any  
30 governmental agency as to the standards.

31 SEC. 207. Section 25500 of the Public Resources Code is  
32 amended to read:

33 25500. In accordance with the provisions of this division, the  
34 board shall have the exclusive power to certify all sites and related  
35 facilities in the state, whether a new site and related facility or a  
36 change or addition to an existing facility. The issuance of a  
37 certificate by the board shall be in lieu of any permit, certificate,  
38 or similar document required by any state, local or regional agency,  
39 or federal agency to the extent permitted by federal law, for such  
40 use of the site and related facilities, and shall supersede any

1 applicable statute, ordinance, or regulation of any state, local, or  
2 regional agency, or federal agency to the extent permitted by  
3 federal law.

4 After the effective date of this division, no construction of any  
5 facility or modification of any existing facility shall be commenced  
6 without first obtaining certification for any such site and related  
7 facility by the commission, as prescribed in this division.

8 SEC. 208. Section 25500.5 of the Public Resources Code is  
9 amended to read:

10 25500.5. The board shall certify sufficient sites and related  
11 facilities that are required to provide a supply of electric power  
12 sufficient to accommodate the demand projected in the most recent  
13 forecast of statewide and regional electric power demands  
14 forecasted pursuant to Section 25303.

15 SEC. 209. Section 25501 of the Public Resources Code is  
16 amended to read:

17 25501. This chapter does not apply to any site or related facility  
18 that was not subject to this chapter prior to January 1, 2011, and  
19 that as of July 1, 2011, has an application accepted as complete  
20 by the agency with jurisdiction on or before December 31, 2010.

21 SEC. 210. Section 25501.7 of the Public Resources Code is  
22 amended to read:

23 25501.7. A person proposing to construct a facility or a site  
24 to which Section 25501 applies may waive the exclusion of the  
25 site and related facility from the provisions of this chapter by  
26 submitting to the department a notice to that effect on or after July  
27 1, 1976, and any and all of the provisions of this chapter shall  
28 apply to the construction of the facility.

29 SEC. 211. Section 25502 of the Public Resources Code is  
30 amended to read:

31 25502. (a) Each person proposing to construct a thermal  
32 powerplant or electric transmission line on a site shall submit to  
33 the department a notice of intention to file an application for the  
34 certification of the site and related facility or facilities. The notice  
35 shall be an attempt primarily to determine the suitability of the  
36 proposed sites to accommodate the facilities and to determine the  
37 general conformity of the proposed sites and related facilities with  
38 standards of the board and assessments of need adopted pursuant  
39 to Sections 25305 to 25308, inclusive. The notice shall be in the

1 form prescribed by the department and shall be supported by  
2 information that the board may require.

3 (b) Any site and related facility once found to be acceptable  
4 pursuant to Section 25516 is, and shall continue to be, eligible for  
5 consideration in an application for certification without further  
6 proceedings required for a notice under this chapter.

7 SEC. 212. Section 25502.3 of the Public Resources Code is  
8 amended to read:

9 25502.3. Except as provided in Section 25501.7, a person  
10 proposing to construct a facility excluded from this chapter may  
11 waive that exclusion by submitting to the department a notice of  
12 intention to file an application for certification, and any and all of  
13 the provisions of this chapter shall apply to the construction of that  
14 facility.

15 SEC. 213. Section 25504 of the Public Resources Code is  
16 amended to read:

17 25504. The notice of intention shall include a statement by the  
18 applicant describing the location of the proposed sites by section  
19 or sections, range and township, and county; a summary of the  
20 proposed design criteria of the facilities; the type or types of fuels  
21 to be used; the methods of construction and operation; the proposed  
22 location of facilities and structures on each site; a preliminary  
23 statement of the relative economic, technological, and  
24 environmental advantages and disadvantages of the alternative site  
25 and related facility proposals; a statement of need for the facility  
26 and information showing the compatibility of the proposals with  
27 the most recent electricity report issued pursuant to Section 25308;  
28 and any other information that an electric utility deems desirable  
29 to submit to the department.

30 SEC. 214. Section 25504.5 of the Public Resources Code is  
31 amended to read:

32 25504.5. An applicant may, in the notice, propose a site to be  
33 approved that will accommodate a potential maximum electric  
34 generating capacity in excess of the capacity being proposed for  
35 the initial approval of the board. If this proposal is made, the notice  
36 shall include, but not be limited to, in addition to the information  
37 specified in Section 25504, all of the following:

38 (a) The number, type, and energy source of electric generating  
39 units that the site is proposed ultimately to accommodate and the  
40 maximum generating capacity for each unit.

- 1 (b) The projected installation schedule for each unit.
- 2 (c) The impact at the site, when fully developed, on the
- 3 environment and public health and safety.
- 4 (d) The amount and sources of cooling water needed at the fully
- 5 developed site.
- 6 (e) The location and specifications of auxiliary facilities planned
- 7 for each state of development including, but not limited to,
- 8 pipelines, waste storage facilities, fuel storage facilities,
- 9 switchyards, coolant lines, coolant outfalls, and cooling ponds,
- 10 lakes, or towers.

11 SEC. 215. Section 25505 of the Public Resources Code is  
12 amended to read:

13 25505. Upon receipt of a notice, the department shall cause a  
14 summary of the notice to be published in a newspaper of general  
15 circulation in each county in which the sites and related facilities,  
16 or any part thereof, designated in the notice are proposed to be  
17 located. The department shall also transmit a copy of the notice to  
18 the Public Utilities Commission, for sites and related facilities  
19 requiring a certificate of public convenience and necessity, and to  
20 other federal, state, regional, and local agencies having an interest  
21 in matters pertinent to the proposed facilities at any of the  
22 alternative sites. A copy of the notice shall also be transmitted to  
23 the Attorney General.

24 SEC. 216. Section 25506 of the Public Resources Code is  
25 amended to read:

26 25506. The department shall request the appropriate local,  
27 regional, state, and federal agencies to make comments and  
28 recommendations regarding the design, operation, and location of  
29 the facilities designated in the notice, in relation to environmental  
30 quality, public health and safety, and other factors on which they  
31 may have expertise.

32 SEC. 217. Section 25506.5 of the Public Resources Code is  
33 amended to read:

34 25506.5. The department shall request the Public Utilities  
35 Commission, for sites and related facilities requiring a certificate  
36 of public convenience and necessity, to make comments and  
37 recommendations regarding the design, operation, and location of  
38 the facilities designated in the notice in relation to the economic,  
39 financial, rate, system reliability, and service implications of the  
40 proposed facilities.

1 SEC. 218. Section 25507 of the Public Resources Code is  
2 amended to read:

3 25507. (a) If any alternative site and related facility proposed  
4 in the notice is proposed to be located, in whole or in part, within  
5 the coastal zone, the department shall transmit a copy of the notice  
6 to the California Coastal Commission. The California Coastal  
7 Commission shall analyze the notice and prepare the report and  
8 findings prescribed by subdivision (d) of Section 30413 prior to  
9 commencement of hearings pursuant to Section 25513.

10 (b) If any alternative site and related facility proposed in the  
11 notice is proposed to be located, in whole or in part, within the  
12 Suisun Marsh, or within the jurisdiction of the San Francisco Bay  
13 Conservation and Development Commission, the department shall  
14 transmit a copy of the notice to the San Francisco Bay Conservation  
15 and Development Commission. The San Francisco Bay  
16 Conservation and Development Commission shall analyze the  
17 notice and prepare the report and findings prescribed by subdivision  
18 (d) of Section 66645 of the Government Code prior to  
19 commencement of hearings pursuant to Section 25513.

20 SEC. 219. Section 25508 of the Public Resources Code is  
21 amended to read:

22 25508. The department shall cooperate with, and render advice  
23 to, the California Coastal Commission and the San Francisco Bay  
24 Conservation and Development Commission in studying  
25 applications for any site and related facility proposed to be located,  
26 in whole or in part, within the coastal zone, the Suisun Marsh, or  
27 the jurisdiction of the San Francisco Bay Conservation and  
28 Development Commission if requested by the California Coastal  
29 Commission or the San Francisco Bay Conservation and  
30 Development Commission, as the case may be. The California  
31 Coastal Commission or the San Francisco Bay Conservation and  
32 Development Commission, as the case may be, may participate in  
33 public hearings on the notice and on the application for site and  
34 related facility certification as an interested party in the  
35 proceedings.

36 SEC. 220. Section 25509 of the Public Resources Code is  
37 amended to read:

38 25509. Within 45 days of the filing of the notice, the  
39 department shall conduct public informational presentations in the  
40 county or counties in which the proposed sites and related facilities

1 are located. The place of the public informational presentations  
2 shall be as close as practicable to the proposed sites. The  
3 presentations shall be for the purpose of setting forth the electrical  
4 demand basis for the proposed site and related facility and  
5 providing knowledge and understanding of the proposed facilities  
6 and sites.

7 SEC. 221. Section 25509.5 of the Public Resources Code is  
8 amended to read:

9 25509.5. No sooner than 15 days after the conclusion of the  
10 presentations pursuant to Section 25509, the department and the  
11 board shall commence nonadjudicatory hearings. The hearings  
12 shall identify issues for adjudication in hearings pursuant to Section  
13 25513, issues that may be eliminated from further consideration  
14 in the notice proceedings, and issues that should be deferred to the  
15 certification proceeding. Any person may participate to the extent  
16 deemed reasonable and relevant by the presiding member of the  
17 board in the hearings. In scheduling the hearings the presiding  
18 member shall confer with the public adviser to provide that the  
19 hearing dates and locations are as convenient as possible for  
20 interested parties and the public. The hearings shall be conducted  
21 in order to accomplish all of the following purposes:

22 (a) To set forth the electrical demand basis for the proposed site  
23 and related facility.

24 (b) To provide knowledge and understanding of proposed  
25 facilities and sites.

26 (c) To obtain the views and comments of the public, parties,  
27 and concerned governmental agencies on the environmental, public  
28 health and safety, economic, social, and land use impacts of the  
29 facility at the proposed sites.

30 (d) To solicit information regarding reasonable alternative  
31 sources of the electric generating capacity or energy to be provided  
32 by alternative sites and related facilities, or combinations thereof,  
33 which will better carry out the policies and objectives of this  
34 division.

35 SEC. 222. Section 25510 of the Public Resources Code is  
36 amended to read:

37 25510. After the conclusion of the hearings pursuant to Section  
38 25509.5, and no later than 150 days after filing of the notice, the  
39 department shall prepare and make public a summary and hearing  
40 order on the notice of intention to file an application. The

1 department may include within the summary and hearing order  
2 any other alternatives proposed by the board or presented to the  
3 board at a public hearing prior to preparation of the summary and  
4 hearing order. The summary and hearing order shall be published  
5 and made available to the public and to interested local, regional,  
6 state, and federal agencies.

7 SEC. 223. Section 25511 of the Public Resources Code is  
8 amended to read:

9 25511. The department and the board shall review the factors  
10 related to safety and reliability of the facilities at each of the  
11 alternative sites designated in the notice. In addition to other  
12 information requested of the applicant, the board shall, in  
13 determining the appropriateness of sites and related facilities,  
14 require detailed information on proposed emergency systems and  
15 safety precautions, plans for transport, handling and storage of  
16 wastes and fuels, proposed methods to prevent illegal diversion  
17 of nuclear fuels, special design features to account for seismic and  
18 other potential hazards, proposed methods to control density of  
19 population in areas surrounding nuclear powerplants, and any other  
20 information that the board may determine to be relevant to the  
21 reliability and safety of the facility at the proposed sites. The board  
22 shall analyze the information provided by the applicant,  
23 supplementing it, where necessary, by onsite investigations and  
24 other studies. The board shall determine the adequacy of measures  
25 proposed by the applicant to protect public health and safety, and  
26 shall include its findings in the final report required by Section  
27 25514.

28 SEC. 224. Section 25512 of the Public Resources Code is  
29 amended to read:

30 25512. (a) The summary and hearing order shall be based  
31 upon the record of the proceeding including statements or  
32 documents presented during any hearing or informational  
33 presentation on the notice, the comments transmitted by the Public  
34 Utilities Commission and local, regional, state, and federal agencies  
35 and the public to the department and the board, and independent  
36 studies conducted by the department's staff.

37 (b) The summary and hearing order shall:

38 (1) Identify those issues for consideration in hearings pursuant  
39 to Section 25513.

1 (2) Identify those issues which may be eliminated from further  
2 consideration in the notice of intention proceedings.

3 (3) Identify those issues which should be deferred to the  
4 certification proceeding.

5 (4) Contain proposed findings on matters relevant to the  
6 provisions of Section 25514.

7 (5) Specify dates for the adjudicatory hearings.

8 SEC. 225. Section 25513 of the Public Resources Code is  
9 amended to read:

10 25513. No earlier than 30 days after distribution of the  
11 summary and hearing order, the board shall commence adjudicatory  
12 hearings pursuant to the hearing order.

13 SEC. 226. Section 25513.3 of the Public Resources Code is  
14 amended to read:

15 25513.3. Notwithstanding Sections 11425.30 and 11430.10 of  
16 the Government Code, unless a party demonstrates other statutory  
17 grounds for disqualification, a person who has served as  
18 investigator or advocate in an adjudicative proceeding of the board  
19 under this code may serve as a supervisor of the presiding officer  
20 or assist or advise the presiding officer of the board in the same  
21 proceeding if the service, assistance, or advice occurs more than  
22 one year after the time the person served as investigator or advocate  
23 and if the content of any advice is disclosed on the record and all  
24 parties have an opportunity to comment on the advice.

25 SEC. 227. Section 25514 of the Public Resources Code is  
26 amended to read:

27 25514. After conclusion of the hearings held pursuant to  
28 Section 25513 and no later than 300 days after the filing of the  
29 notice, a final report shall be prepared and distributed. The final  
30 report shall include, but not be limited to, all of the following:

31 (a) The findings and conclusions of the board regarding the  
32 conformity of alternative sites and related facilities designated in  
33 the notice or considered in the notice of intention proceeding with  
34 both of the following:

35 (1) The 12-year forecast of statewide and service area electric  
36 power demands adopted pursuant to subdivision (e) of Section  
37 25305, except as provided in Section 25514.5.

38 (2) Applicable local, regional, state, and federal standards,  
39 ordinances, and laws, including any long-range land use plans or  
40 guidelines adopted by the state or by any local or regional planning

1 agency, which would be applicable but for the exclusive authority  
2 of the board to certify sites and related facilities; and the standards  
3 adopted by the board pursuant to Section 25216.3.

4 (b) Any findings and comments submitted by the California  
5 Coastal Commission pursuant to Section 25507 and subdivision  
6 (d) of Section 30413.

7 (c) Any findings and comments submitted by the San Francisco  
8 Bay Conservation and Development Commission pursuant to  
9 Section 25507 of this code and subdivision (d) of Section 66645  
10 of the Government Code.

11 (d) The board's findings on the acceptability and relative merit  
12 of each alternative siting proposal designated in the notice or  
13 presented at the hearings and reviewed by the board. The specific  
14 findings of relative merit shall be made pursuant to Sections 25502  
15 to 25516, inclusive. In its findings on any alternative siting  
16 proposal, the board may specify modification in the design,  
17 construction, location, or other conditions that will meet the  
18 standards, policies, and guidelines established by the board.

19 (e) Findings and conclusions with respect to the safety and  
20 reliability of the facility or facilities at each of the sites designated  
21 in the notice, as determined by the board pursuant to Section 25511,  
22 and any conditions, modifications, or criteria proposed for any site  
23 and related facility proposal resulting from the findings and  
24 conclusions.

25 (f) Findings and conclusions as to whether increased property  
26 taxes due to the construction of the project are sufficient to support  
27 needed local improvements and public services required to serve  
28 the project.

29 SEC. 228. Section 25514.3 of the Public Resources Code is  
30 amended to read:

31 25514.3. In specifying any modifications, conditions, or criteria  
32 pursuant to Section 25514, for sites and related facilities requiring  
33 a certificate of public convenience and necessity, the board shall  
34 request the comments and recommendations of the Public Utilities  
35 Commission on the economic, financial, rate, system reliability,  
36 and service implications of the modifications, conditions, or  
37 criteria.

38 SEC. 229. Section 25514.5 of the Public Resources Code is  
39 amended to read:

1 25514.5. In considering the acceptability of a site proposed to  
2 accommodate ultimately additional power-generating capacity,  
3 the board, in determining, pursuant to Sections 25514 and 25512,  
4 the conformity of the facilities proposed in the notice with the  
5 12-year forecast of statewide and service area electric power  
6 demands adopted pursuant to subdivision (e) of Section 25305,  
7 shall base its determination only on such initial facilities as are  
8 proposed for operation within the forthcoming 12-year period.  
9 Additional facilities projected to be operating at the site at a time  
10 beyond the forthcoming 12-year period shall not be considered in  
11 the determination of conformity with the electric power demand  
12 forecast.

13 SEC. 230. Section 25516 of the Public Resources Code is  
14 amended to read:

15 25516. (a) The approval of the notice by the board shall be  
16 based upon findings pursuant to Section 25514. The notice shall  
17 not be approved unless the board finds at least two alternative site  
18 and related facility proposals considered in the board's final report  
19 as acceptable. If the board does not find at least two sites and  
20 related facilities acceptable, additional sites and related facilities  
21 may be proposed by the applicant, which shall be considered in  
22 the same manner as those proposed in the original notice.

23 (b) If the board finds that a good faith effort has been made by  
24 the person submitting the notice to find an acceptable alternative  
25 site and related facility and that there is only one acceptable site  
26 and related facility among those submitted, the board may approve  
27 the notice based on the one site and related facility. If a notice is  
28 approved based on one site and related facility, the board may  
29 require a new notice to be filed to identify acceptable alternative  
30 sites and related facilities for the one site and related facility  
31 approved unless suitable alternative sites and related facilities have  
32 been approved by the board in previous notice of intention  
33 proceedings.

34 (c) If the board finds that additional electric generating capacity  
35 is needed to accommodate the electric power demand forecast  
36 pursuant to subdivision (e) of Section 25305 and, after the board  
37 finds that a good faith effort was made by the person submitting  
38 the notice to propose an acceptable site and related facility, it fails  
39 to find any proposed site and related facility to be acceptable, the  
40 board shall designate, at the request of and at the expense of the

1 person submitting the notice, a feasible site and related facility for  
2 providing the needed electric generating capacity.

3 SEC. 231. Section 25516.1 of the Public Resources Code is  
4 amended to read:

5 25516.1. If a site and related facility found to be acceptable by  
6 the board pursuant to Section 25516 is located in the coastal zone,  
7 the Suisun Marsh, or the jurisdiction of the San Francisco Bay  
8 Conservation and Development Commission, an application for  
9 certification shall not be filed pursuant to Section 25519 unless  
10 the board has determined, pursuant to Section 25514, that the site  
11 and related facility have greater relative merit than available  
12 alternative sites and related facilities for an applicant's service  
13 area that have been determined to be acceptable by the board  
14 pursuant to Section 25516.

15 SEC. 232. Section 25516.5 of the Public Resources Code is  
16 amended to read:

17 25516.5. (a) On a notice that proposes an expanded ultimate  
18 electric generating capacity for a site, the board may, based upon  
19 findings pursuant to Section 25514, either approve the notice only  
20 for the initial facility or facilities proposed for operation within  
21 the forthcoming 12-year period or may approve the notice for the  
22 initial facility or facilities and find the site acceptable for additional  
23 generating capacity of the type tentatively proposed. The maximum  
24 allowable amount and type of additional capacity shall be  
25 determined by the board.

26 (b) If a notice is approved that includes a finding that a particular  
27 site is suitable to accommodate a particular additional generating  
28 capacity, the site shall be designated a potential multiple-facility  
29 site. The board may, in determining the acceptability of a potential  
30 multiple-facility site, specify conditions or criteria necessary to  
31 insure that future additional facilities will not exceed the limitations  
32 of the site.

33 SEC. 233. Section 25516.6 of the Public Resources Code is  
34 amended to read:

35 25516.6. (a) Except as otherwise expressly provided in this  
36 division, the board shall issue its written decision on the notice  
37 not later than 12 months after the notice is filed, or at any later  
38 time as is mutually agreed upon by the board and the applicant.

39 (b) The board shall determine, within 45 days after it receives  
40 the notice, whether the notice is complete. If the board determines

1 that the notice is complete, the notice shall be deemed filed for the  
 2 purpose of this section on the date that this determination is made.  
 3 If the board determines that the notice is incomplete, the board  
 4 shall specify, in writing, those parts of the notice that are  
 5 incomplete and shall indicate the manner in which it can be made  
 6 complete. If the applicant submits additional data to complete the  
 7 notice, the board shall determine, within 30 days after receipt of  
 8 that data, whether the data is sufficient to make the notice complete.  
 9 The notice shall be deemed filed on the date the board determines  
 10 the notice is complete if the board has adopted regulations  
 11 specifying the informational requirements for a complete notice,  
 12 but if the board has not adopted regulations, the notice shall be  
 13 deemed filed on the last date the board receives any additional  
 14 data that completes the notice.

15 SEC. 234. Section 25517 of the Public Resources Code is  
 16 amended to read:

17 25517. Except as provided in Section 25501, construction of  
 18 a thermal powerplant or electric transmission line shall not be  
 19 commenced by any electric utility without first obtaining  
 20 certification as prescribed in this division. Any onsite  
 21 improvements not qualifying as construction may be required to  
 22 be restored as determined by the board to be necessary to protect  
 23 the environment, if certification is denied.

24 SEC. 235. Section 25518 of the Public Resources Code is  
 25 amended to read:

26 25518. The Public Utilities Commission shall not issue a  
 27 certificate of public convenience and necessity for a site or related  
 28 electrical facilities unless the utility has obtained a certificate from  
 29 the board.

30 SEC. 236. Section 25519 of the Public Resources Code is  
 31 amended to read:

32 25519. (a) In order to obtain certification for a site and related  
 33 facility, an application for certification of the site and related  
 34 facility shall be filed with the department. The application shall  
 35 be in a form prescribed by the board and shall be for a site and  
 36 related facility that has been found to be acceptable by the board  
 37 pursuant to Section 25516, or for an additional facility at a site  
 38 that has been designated a potential multiple-facility site pursuant  
 39 to Section 25514.5 and found to be acceptable pursuant to Sections  
 40 25516 and 25516.5. An application for an additional facility at a

1 potential multiple-facility site shall be subject to the conditions  
2 and review specified in Section 25520.5. An application shall not  
3 be filed for a site and related facility if there is no suitable  
4 alternative for the site and related facility that was previously found  
5 to be acceptable by the board, unless the board has approved the  
6 notice based on the one site as specified in Section 25516.

7 (b) The board, upon its own motion or in response to the request  
8 of any party, may require the applicant to submit any information,  
9 document, or data, in addition to the attachments required by  
10 subdivision (i), that it determines is reasonably necessary to make  
11 any decision on the application.

12 (c) The department shall be the lead agency as provided in  
13 Section 21165 for all projects that require certification pursuant  
14 to this chapter and for projects that are exempted from such  
15 certification pursuant to Section 25541. Unless the department's  
16 regulatory program governing site and facility certification and  
17 related proceedings are certified by the Natural Resources Agency  
18 pursuant to Section 21080.5, an environmental impact report shall  
19 be completed within one year after receipt of the application. If  
20 the department prepares a document or documents in the place of  
21 an environmental impact report or negative declaration under a  
22 regulatory program certified pursuant to Section 21080.5, any  
23 other public agency that must make a decision that is subject to  
24 the California Environmental Quality Act, Division 13  
25 (commencing with Section 21000), on a site or related facility,  
26 shall use the document or documents prepared by the department  
27 in the same manner as they would use an environmental impact  
28 report or negative declaration prepared by a lead agency.

29 (d) If the site and related facility specified in the application is  
30 proposed to be located in the coastal zone, the department shall  
31 transmit a copy of the application to the California Coastal  
32 Commission for its review and comments.

33 (e) If the site and related facility specified in the application is  
34 proposed to be located in the Suisun Marsh or the jurisdiction of  
35 the San Francisco Bay Conservation and Development  
36 Commission, the department shall transmit a copy of the  
37 application to the San Francisco Bay Conservation and  
38 Development Commission for its review and comments.

39 (f) Upon receipt of an application, the department shall forward  
40 the application to local governmental agencies having land use

1 and related jurisdiction in the area of the proposed site and related  
2 facility. Those local agencies shall review the application and  
3 submit comments on, among other things, the design of the facility,  
4 architectural and aesthetic features of the facility, access to  
5 highways, landscaping and grading, public use of lands in the area  
6 of the facility, and other appropriate aspects of the design,  
7 construction, or operation of the proposed site and related facility.

8 (g) Upon receipt of an application, the department shall cause  
9 a summary of the application to be published in a newspaper of  
10 general circulation in the county in which the site and related  
11 facilities, or any part thereof, designated in the application, is  
12 proposed to be located. The department shall transmit a copy of  
13 the application to each federal and state agency having jurisdiction  
14 or special interest in matters pertinent to the proposed site and  
15 related facilities and to the Attorney General.

16 (h) Local and state agencies having jurisdiction or special  
17 interest in matters pertinent to the proposed site and related  
18 facilities shall provide their comments and recommendations on  
19 the project within 180 days of the date of filing of an application.

20 (i) The adviser shall require that adequate notice is given to the  
21 public and that the procedures specified by this division are  
22 complied with.

23 (j) For any proposed site and related facility requiring a  
24 certificate of public convenience and necessity, the department  
25 shall transmit a copy of the application to the Public Utilities  
26 Commission and request the comments and recommendations of  
27 the Public Utilities Commission on the economic, financial, rate,  
28 system reliability, and service implications of the proposed site  
29 and related facility. If the board requires modification of the  
30 proposed facility, the department shall consult with the Public  
31 Utilities Commission regarding the economic, financial, rate,  
32 system reliability, and service implications of those modifications.

33 (k) The department shall transmit a copy of the application to  
34 any governmental agency not specifically mentioned in this act,  
35 but which it finds has any information or interest in the proposed  
36 site and related facilities, and shall invite the comments and  
37 recommendations of each agency. The department shall request  
38 any relevant laws, ordinances, or regulations that an agency has  
39 promulgated or administered.

1 (l) An application for certification of any site and related  
2 facilities shall contain a listing of every federal agency from which  
3 any approval or authorization concerning the proposed site is  
4 required, specifying the approvals or authorizations obtained at  
5 the time of the application and the schedule for obtaining any  
6 approvals or authorizations pending.

7 SEC. 237. Section 25520 of the Public Resources Code is  
8 amended to read:

9 25520. The application shall contain all of the following  
10 information and any other information that the board by regulation  
11 may require:

12 (a) A detailed description of the design, construction, and  
13 operation of the proposed facility.

14 (b) Safety and reliability information, including, in addition to  
15 documentation previously provided pursuant to Section 25511,  
16 planned provisions for emergency operations and shutdowns.

17 (c) Available site information, including maps and descriptions  
18 of present and proposed development and, as appropriate,  
19 geological, aesthetic, ecological, seismic, water supply, population,  
20 and load center data, and justification for the particular site  
21 proposed.

22 (d) Any other information relating to the design, operation, and  
23 siting of the facility that the board may specify.

24 (e) A description of the facility, the cost of the facility, the fuel  
25 to be used, the source of fuel, fuel cost, plant service life and  
26 capacity factor, and generating cost per kilowatthour.

27 (f) A description of any electric transmission lines, including  
28 the estimated cost of the proposed electric transmission line; a map  
29 in suitable scale of the proposed routing showing details of the  
30 rights-of-way in the vicinity of settled areas, parks, recreational  
31 areas, and scenic areas, and existing transmission lines within one  
32 mile of the proposed route; justification for the route, and a  
33 preliminary description of the effect of the proposed electric  
34 transmission line on the environment, ecology, and scenic, historic,  
35 and recreational values.

36 SEC. 238. Section 25520.5 of the Public Resources Code is  
37 amended to read:

38 25520.5. (a) In reviewing an application for an additional  
39 facility at a potential multiple-facility site, the board shall undertake  
40 a reconsideration of its prior determinations in the final report on

1 the notice for the site issued pursuant to Section 25514, based on  
2 current conditions and other reasonable and feasible alternatives  
3 to the proposed facility.

4 (b) Within 180 days of the filing of the application for an  
5 additional facility at a potential multiple-facility site and after  
6 adequate public hearings, the board shall issue its decision on the  
7 acceptability of the proposed facility based on the reconsideration  
8 specified in subdivision (a) of this section. A negative  
9 determination shall be the final decision of the commission on the  
10 application and subject to judicial review pursuant to Section  
11 25531. An affirmative determination shall not be a final decision  
12 of the board on the application.

13 (c) The decision of the board on an application for an additional  
14 facility at a potential multiple-facility site receiving a favorable  
15 determination pursuant to subdivision (b) of this section shall be  
16 issued within 24 months after the filing of the application or at a  
17 later time that is mutually agreed upon by the board and the  
18 applicant.

19 SEC. 239. Section 25521 of the Public Resources Code is  
20 amended to read:

21 25521. No earlier than 90 nor later than 240 days after the date  
22 of the filing of an application, the board shall commence a public  
23 hearing or hearings on the application in Sacramento, San  
24 Francisco, Los Angeles, or San Diego, whichever city is nearest  
25 the proposed site. Additionally, the board may hold a hearing or  
26 hearings in the county in which the proposed site and related  
27 facilities are to be located. The board hearings shall provide a  
28 reasonable opportunity for the public and all parties to the  
29 proceeding to comment upon the application and the department  
30 staff assessment and shall provide the equivalent opportunity for  
31 comment as required pursuant to Division 13 (commencing with  
32 Section 21000). Consistent with the requirements of this section,  
33 the board shall have the discretion to determine whether or not a  
34 hearing is to be conducted in a manner that requires formal  
35 examination of witnesses or that uses other similar adjudicatory  
36 procedures.

37 SEC. 240. Section 25522 of the Public Resources Code is  
38 amended to read:

39 25522. (a) Except as provided in subdivision (c) of Section  
40 25520.5, within 18 months of the filing of an application for

1 certification, or within 12 months if it is filed within one year of  
2 the board's approval of the notice of intent, or at a later time that  
3 is mutually agreed upon by the board and the applicant, the board  
4 shall issue a written decision as to the application.

5 (b) The department shall determine, within 45 days after it  
6 receives the application, whether the application is complete. If  
7 the department determines that the application is complete, the  
8 application shall be deemed filed for purposes of this section on  
9 the date that this determination is made. If the department  
10 determines that the application is incomplete, the department shall  
11 specify in writing those parts of the application that are incomplete  
12 and shall indicate the manner in which it can be made complete.  
13 If the applicant submits additional data to complete the application,  
14 the department shall determine, within 30 days after receipt of that  
15 data, whether the data is sufficient to make the application  
16 complete. The application shall be deemed filed on the date when  
17 the department determines the application is complete if the board  
18 has adopted regulations specifying the informational requirements  
19 for a complete application, but if the board has not adopted  
20 regulations, the application shall be deemed filed on the last date  
21 the department receives any additional data that completes the  
22 application.

23 SEC. 241. Section 25523 of the Public Resources Code is  
24 amended to read:

25 25523. The board shall prepare a written decision after the  
26 public hearing on an application, that includes all of the following:

27 (a) Specific provisions relating to the manner in which the  
28 proposed facility is to be designed, sited, and operated in order to  
29 protect environmental quality and ensure public health and safety.

30 (b) In the case of a site to be located in the coastal zone, specific  
31 provisions to meet the objectives of Division 20 (commencing  
32 with Section 30000) as may be specified in the report submitted  
33 by the California Coastal Commission pursuant to subdivision (d)  
34 of Section 30413, unless the board specifically finds that the  
35 adoption of the provisions specified in the report would result in  
36 greater adverse effect on the environment or that the provisions  
37 proposed in the report would not be feasible.

38 (c) In the case of a site to be located in the Suisun Marsh or in  
39 the jurisdiction of the San Francisco Bay Conservation and  
40 Development Commission, specific provisions to meet the

1 requirements of Division 19 (commencing with Section 29000)  
2 of this code or Title 7.2 (commencing with Section 66600) of the  
3 Government Code as may be specified in the report submitted by  
4 the San Francisco Bay Conservation and Development Commission  
5 pursuant to subdivision (d) of Section 66645 of the Government  
6 Code, unless the board specifically finds that the adoption of the  
7 provisions specified in the report would result in greater adverse  
8 effect on the environment or the provisions proposed in the report  
9 would not be feasible.

10 (d) (1) Findings regarding the conformity of the proposed site  
11 and related facilities with standards adopted by the board pursuant  
12 to Section 25216.3 and subdivision (d) of Section 25402, with  
13 public safety standards and the applicable air and water quality  
14 standards, and with other applicable local, regional, state, and  
15 federal standards, ordinances, or laws. If the board finds that there  
16 is noncompliance with a state, local, or regional ordinance or  
17 regulation in the application, it shall consult and meet with the  
18 state, local, or regional governmental agency concerned to attempt  
19 to correct or eliminate the noncompliance. If the noncompliance  
20 cannot be corrected or eliminated, the department shall inform the  
21 state, local, or regional governmental agency if it makes the  
22 findings required by Section 25525.

23 (2) The board may not find that the proposed facility conforms  
24 with applicable air quality standards pursuant to paragraph (1)  
25 unless the applicable air pollution control district or air quality  
26 management district certifies, prior to the licensing of the project  
27 by the board, that complete emissions offsets for the proposed  
28 facility have been identified and will be obtained by the applicant  
29 within the time required by the district's rules or unless the  
30 applicable air pollution control district or air quality management  
31 district certifies that the applicant requires emissions offsets to be  
32 obtained prior to the commencement of operation consistent with  
33 Section 42314.3 of the Health and Safety Code and prior to  
34 commencement of the operation of the proposed facility. The board  
35 shall require as a condition of certification that the applicant obtain  
36 any required emission offsets within the time required by the  
37 applicable district rules, consistent with any applicable federal and  
38 state laws and regulations, and prior to the commencement of the  
39 operation of the proposed facility.

1 (e) Provision for restoring the site as necessary to protect the  
2 environment, if the board denies approval of the application.

3 (f) In the case of a site and related facility using resource  
4 recovery (waste-to-energy) technology, specific conditions  
5 requiring that the facility be monitored to ensure compliance with  
6 paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315  
7 of the Health and Safety Code.

8 (g) In the case of a facility, other than a resource recovery  
9 facility subject to subdivision (f), specific conditions requiring the  
10 facility to be monitored to ensure compliance with toxic air  
11 contaminant control measures adopted by an air pollution control  
12 district or air quality management district pursuant to subdivision  
13 (d) of Section 39666 or Section 41700 of the Health and Safety  
14 Code, whether the measures were adopted before or after issuance  
15 of a determination of compliance by the district.

16 (h) A discussion of any public benefits from the project  
17 including, but not limited to, economic benefits, environmental  
18 benefits, and electricity reliability benefits.

19 SEC. 242. Section 25524.1 of the Public Resources Code is  
20 amended to read:

21 25524.1. (a) Except for the existing Diablo Canyon Units 1  
22 and 2 owned by Pacific Gas and Electric Company and San Onofre  
23 Units 2 and 3 owned by Southern California Edison Company and  
24 San Diego Gas and Electric Company, a nuclear fission thermal  
25 powerplant requiring the reprocessing of fuel rods, including any  
26 to which this chapter does not otherwise apply, excepting any  
27 having a vested right as defined in this section, shall not be  
28 permitted land use in the state or, where applicable, certified by  
29 the board until both of the following conditions are met:

30 (1) The board finds that the United States through its authorized  
31 agency has identified and approved, and there exists a technology  
32 for the construction and operation of, nuclear fuel rod reprocessing  
33 plants.

34 (2) The board has reported its findings and the reasons therefor  
35 pursuant to paragraph (1) to the Legislature. That report shall be  
36 assigned to the appropriate policy committees for review. The  
37 board may proceed to certify nuclear fission thermal powerplants  
38 100 legislative days after reporting the board's findings unless  
39 within those 100 legislative days either house of the Legislature

1 adopts by a majority vote of its members a resolution disaffirming  
2 the findings of the board made pursuant to paragraph (1).

3 (3) A resolution of disaffirmance shall set forth the reasons for  
4 the action and shall provide, to the extent possible, guidance to  
5 the board as to an appropriate method of bringing the board's  
6 findings into conformance with paragraph (1).

7 (4) If a disaffirming resolution is adopted, the board shall  
8 reexamine its original findings consistent with matters raised in  
9 the resolution. On conclusion of its reexamination, the board shall  
10 transmit its findings in writing, with the reasons therefor, to the  
11 Legislature.

12 (5) If the findings are that the conditions of paragraph (1) have  
13 been met, the board may proceed to certify nuclear fission thermal  
14 powerplants 100 legislative days after reporting its findings to the  
15 Legislature unless within those 100 legislative days both houses  
16 of the Legislature act by statute to declare the findings null and  
17 void and take appropriate action.

18 (6) To allow sufficient time for the Legislature to act, the reports  
19 of findings of the board shall be submitted to the Legislature at  
20 least six calendar months prior to the adjournment of the  
21 Legislature sine die.

22 (b) The board shall further find on a case-by-case basis that  
23 facilities with adequate capacity to reprocess nuclear fuel rods  
24 from a certified nuclear facility or to store that fuel if that storage  
25 is approved by an authorized agency of the United States are in  
26 actual operation or will be in operation at the time that the nuclear  
27 facility requires reprocessing or storage; provided, however, that  
28 the storage of fuel is in an offsite location to the extent necessary  
29 to provide continuous onsite full core reserve storage capacity.

30 (c) The board shall continue to receive and process applications  
31 for certification pursuant to this division, but the board shall not  
32 issue a decision pursuant to Section 25523 granting a certificate  
33 until the requirements of this section have been met. All other  
34 permits, licenses, approvals, or authorizations for the entry or use  
35 of the land, including orders of court that may be required may be  
36 processed and granted by the governmental entity concerned, but  
37 construction work to install permanent equipment or structures  
38 shall not commence until the requirements of this section have  
39 been met.

1 SEC. 243. Section 25524.2 of the Public Resources Code is  
2 amended to read:

3 25524.2. Except for the existing Diablo Canyon Units 1 and 2  
4 owned by Pacific Gas and Electric Company and San Onofre Units  
5 2 and 3 owned by Southern California Edison Company and San  
6 Diego Gas and Electric Company, a nuclear fission thermal  
7 powerplant, including any to which this chapter does not otherwise  
8 apply, but excepting those exempted herein, shall not be permitted  
9 land use in the state, or where applicable, be certified by the board  
10 until both of the following conditions have been met:

11 (a) The board finds that there has been developed and that the  
12 United States through its authorized agency has approved and there  
13 exists a demonstrated technology or means for the disposal of  
14 high-level nuclear waste.

15 (b) (1) The board has reported its findings and the reasons  
16 therefor pursuant to paragraph (a) to the Legislature. That report  
17 shall be assigned to the appropriate policy committees for review.  
18 The board may proceed to certify nuclear fission thermal  
19 powerplants 100 legislative days after reporting its findings unless  
20 within those 100 legislative days either house of the Legislature  
21 adopts by a majority vote of its members a resolution disaffirming  
22 the findings of the board made pursuant to subdivision (a).

23 (2) A resolution of disaffirmance shall set forth the reasons for  
24 the action and shall provide, to the extent possible, guidance to  
25 the board as to an appropriate method of bringing the board's  
26 findings into conformance with subdivision (a).

27 (3) If a disaffirming resolution is adopted, the board shall  
28 reexamine its original findings consistent with matters raised in  
29 the resolution. On conclusion of its reexamination, the board shall  
30 transmit its findings in writing, with the reasons therefor, to the  
31 Legislature.

32 (4) If the findings are that the conditions of subdivision (a) have  
33 been met, the board may proceed to certify nuclear fission thermal  
34 powerplants 100 legislative days after reporting its findings to the  
35 Legislature unless within those 100 legislative days both houses  
36 of the Legislature act by statute to declare the findings null and  
37 void and take appropriate action.

38 (5) To allow sufficient time for the Legislature to act, the reports  
39 of findings of the board shall be submitted to the Legislature at

1 least six calendar months prior to the adjournment of the  
2 Legislature sine die.

3 (c) As used in subdivision (a), “technology or means for the  
4 disposal of high-level nuclear waste” means a method for the  
5 permanent and terminal disposition of high-level nuclear waste.  
6 Nothing in this section requires that facilities for the application  
7 of that technology or means be available at the time that the board  
8 makes its findings. That disposition of high-level nuclear waste  
9 does not preclude the possibility of an approved process for  
10 retrieval of the waste.

11 (d) The board shall continue to receive and process notices of  
12 intention and applications for certification pursuant to this division  
13 but shall not issue a decision pursuant to Section 25523 granting  
14 a certificate until the requirements of this section have been met.  
15 All other permits, licenses, approvals, or authorizations for the  
16 entry or use of the land, including orders of court that may be  
17 required may be processed and granted by the governmental entity  
18 concerned, but construction work to install permanent equipment  
19 or structures shall not commence until the requirements of this  
20 section have been met.

21 SEC. 244. Section 25524.5 of the Public Resources Code is  
22 amended to read:

23 25524.5. The board shall not certify any facility that adds  
24 generating capacity to a potential multiple-facility site in excess  
25 of the maximum allowable capacity established by the board  
26 pursuant to Section 25516.5, unless the board finds that exceeding  
27 the maximum allowable capacity will not increase adverse  
28 environmental impacts or create technological, seismic, or other  
29 difficulties beyond those already found acceptable in the board’s  
30 findings on the notice for that site pursuant to Sections 25516 and  
31 25516.5.

32 SEC. 245. Section 25525 of the Public Resources Code is  
33 amended to read:

34 25525. The board shall not certify a facility contained in the  
35 application if it finds, pursuant to subdivision (d) of Section 25523,  
36 that the facility does not conform with any applicable state, local,  
37 or regional standards, ordinances, or laws, unless the board  
38 determines that the facility is required for public convenience and  
39 necessity and that there are not more prudent and feasible means  
40 of achieving public convenience and necessity. In making the

1 determination, the board shall consider the entire record of the  
2 proceeding, including, but not limited to, the impacts of the facility  
3 on the environment, consumer benefits, and electric system  
4 reliability. The board shall not make a finding in conflict with  
5 applicable federal law or regulation. The basis for these findings  
6 shall be reduced to writing and submitted as part of the record  
7 pursuant to Section 25523.

8 SEC. 246. Section 25526 of the Public Resources Code is  
9 amended to read:

10 25526. (a) The board shall not approve as a site for a facility  
11 any location designated by the California Coastal Commission  
12 pursuant to subdivision (b) of Section 30413, unless the California  
13 Coastal Commission first finds that the use is not inconsistent with  
14 the primary uses of that land and that there will be no substantial  
15 adverse environmental effects and unless the approval of any public  
16 agency having ownership or control of the land is obtained.

17 (b) The board shall not approve as a site for a facility any  
18 location designated by the San Francisco Bay Conservation and  
19 Development Commission pursuant to subdivision (b) of Section  
20 66645 of the Government Code unless the San Francisco Bay  
21 Conservation and Development Commission first finds that such  
22 use is not inconsistent with the primary uses of such land and that  
23 there will be no substantial adverse environmental effects and  
24 unless the approval of any public agency having ownership or  
25 control of the land is obtained.

26 SEC. 247. Section 25527 of the Public Resources Code is  
27 amended to read:

28 25527. The following areas of the state shall not be approved  
29 as a site for a facility, unless the board finds that the use is not  
30 inconsistent with the primary uses of those lands and that there  
31 will be no substantial adverse environmental effects and the  
32 approval of any public agency having ownership or control of  
33 those lands is obtained:

34 (a) State, regional, county, and city parks; wilderness, scenic,  
35 or natural reserves; areas for wildlife protection, recreation, historic  
36 preservation; or natural preservation areas in existence on the  
37 effective date of this division.

38 (b) Estuaries in an essentially natural and undeveloped state.

39 In considering applications for certification, the board shall give  
40 the greatest consideration to the need for protecting areas of critical

1 environmental concern, including, but not limited to, unique and  
2 irreplaceable scientific, scenic, and educational wildlife habitats;  
3 unique historical, archaeological, and cultural sites; lands of  
4 hazardous concern; and areas under consideration by the state or  
5 the United States for wilderness, or wildlife and game reserves.

6 SEC. 248. Section 25528 of the Public Resources Code is  
7 amended to read:

8 25528. (a) The board shall require, as a condition of  
9 certification of any site and related facility, that the applicant  
10 acquire, by grant or contract, the right to prohibit development of  
11 privately owned lands in the area of the proposed site that will  
12 result in population densities in excess of the maximum population  
13 densities that the board determines, as to the factors considered  
14 by the board pursuant to Section 25511, are necessary to protect  
15 public health and safety.

16 If the applicant is authorized to exercise the right of eminent  
17 domain under Article 7 (commencing with Section 610) of Chapter  
18 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant  
19 may exercise the right of eminent domain to acquire those  
20 development rights that the board requires be acquired.

21 (b) In the case of an application for a nuclear facility, the area  
22 and population density necessary to ensure the public's health and  
23 safety designated by the board shall be that as determined from  
24 time to time by the United States Nuclear Regulatory Commission,  
25 if the board finds that the determination is sufficiently definitive  
26 for valid land use planning requirements.

27 (c) The board shall waive the requirements of the acquisition  
28 of development rights by an applicant to the extent that the board  
29 finds that existing governmental land use restrictions are of a type  
30 necessary and sufficient to guarantee the maintenance of population  
31 levels and land use development over the lifetime of the facility  
32 which will ensure the public health and safety requirements set  
33 pursuant to this section.

34 (d) No change in governmental land use restrictions in areas  
35 designated in subdivision (c) of this section by any government  
36 agency shall be effective until approved by the board. This approval  
37 shall certify that the change in land use restrictions is not in conflict  
38 with requirements provided for by this section.

39 (e) It is not the intent of the Legislature by the enactment of this  
40 section to take private property for public use without payment of

1 just compensation in violation of the United States Constitution  
2 or the Constitution of California.

3 SEC. 249. Section 25529 of the Public Resources Code is  
4 amended to read:

5 25529. If a facility is proposed to be located in the coastal  
6 zone or any other area with recreational, scenic, or historic value,  
7 the board shall require, as a condition of certification of any facility  
8 contained in the application, that an area be established for public  
9 use, as determined by the board. Lands within the area shall be  
10 acquired and maintained by the applicant and shall be available  
11 for public access and use, subject to restrictions required for  
12 security and public safety. The applicant may dedicate the public  
13 use zone to any local agency agreeing to operate or maintain it for  
14 the benefit of the public. If no local agency agrees to operate or  
15 maintain the public use zone for the benefit of the public, the  
16 applicant may dedicate the zone to the state. The board shall also  
17 require that any facility to be located along the coast or shoreline  
18 of any major body of water be set back from the shoreline to permit  
19 reasonable public use and to protect scenic and aesthetic values.

20 SEC. 250. Section 25530 of the Public Resources Code is  
21 amended to read:

22 25530. (a) The board may order a reconsideration of all or  
23 part of a decision or order on its own motion or on petition of any  
24 party.

25 (b) The petition for reconsideration shall be filed within 30  
26 days after adoption by the board of a decision or order. The board  
27 shall not order a reconsideration on its own motion more than 30  
28 days after it has adopted a decision or order. The board shall order  
29 or deny reconsideration on a petition within 30 days after the  
30 petition is filed.

31 (c) A decision or order may be reconsidered by the board on  
32 the basis of all pertinent portions of the record together with any  
33 argument that the board may permit, or the board may hold a  
34 further hearing, after notice to all interested persons. A decision  
35 or order of the board on reconsideration shall have the same force  
36 and effect as an original order or decision.

37 SEC. 251. Section 25531 of the Public Resources Code is  
38 amended to read:

1 25531. (a) The decisions of the board on any application for  
2 certification of a site and related facility are subject to judicial  
3 review by the Supreme Court of California.

4 (b) New or additional evidence shall not be introduced upon  
5 review and the cause shall be heard on the record of the board as  
6 certified to by it. The review shall not be extended further than to  
7 determine whether the board has regularly pursued its authority,  
8 including a determination of whether the order or decision under  
9 review violates any right of the petitioner under the United States  
10 Constitution or the California Constitution. The findings and  
11 conclusions of the board on questions of fact are final and are not  
12 subject to review, except as provided in this article. These questions  
13 of fact shall include ultimate facts and the findings and conclusions  
14 of the board. A report prepared by, or an approval of, the board  
15 pursuant to Section 25510, 25514, 25516, or 25516.5, or  
16 subdivision (b) of Section 25520.5, shall not constitute a decision  
17 of the board subject to judicial review.

18 (c) Subject to the right of judicial review of decisions of the  
19 board, no court in this state has jurisdiction to hear or determine  
20 any case or controversy concerning any matter which was, or could  
21 have been, determined in a proceeding before the board, or to stop  
22 or delay the construction or operation of any thermal powerplant  
23 except to enforce compliance with the provisions of a decision of  
24 the board.

25 (d) Notwithstanding Section 1250.370 of the Code of Civil  
26 Procedure:

27 (1) If the board requires, pursuant to subdivision (a) of Section  
28 25528, as a condition of certification of any site and related facility,  
29 that the applicant acquire development rights, that requirement  
30 conclusively establishes the matters referred to in Sections  
31 1240.030 and 1240.220 of the Code of Civil Procedure in any  
32 eminent domain proceeding brought by the applicant to acquire  
33 the development rights.

34 (2) If the board certifies any site and related facility, that  
35 certification conclusively establishes the matters referred to in  
36 Sections 1240.030 and 1240.220 of the Code of Civil Procedure  
37 in any eminent domain proceeding brought to acquire the site and  
38 related facility.

1 (e) A decision of the board pursuant to Section 25516, 25522,  
2 or 25523 shall not be found to mandate a specific supply plan for  
3 any utility as prohibited by Section 25323.

4 SEC. 252. Section 25532 of the Public Resources Code is  
5 amended to read:

6 25532. The department shall establish a monitoring system to  
7 assure that any facility certified under this division is constructed  
8 and is operating in compliance with air and water quality, public  
9 health and safety, and other applicable regulations, guidelines, and  
10 conditions adopted or established by the board or specified in the  
11 written decision on the application. In designing and operating the  
12 monitoring system, the department shall seek the cooperation and  
13 assistance of the State Air Resources Board, the State Water  
14 Resources Control Board, the Department of Health, and other  
15 state, regional, and local agencies which have an interest in  
16 environmental control.

17 SEC. 253. Section 25534 of the Public Resources Code is  
18 amended to read:

19 25534. (a) The board may, after one or more hearings, amend  
20 the conditions of, or revoke the certification for, any facility for  
21 any of the following reasons:

22 (1) Any material false statement set forth in the application,  
23 presented in proceedings of the board, or included in supplemental  
24 documentation provided by the applicant.

25 (2) Any significant failure to comply with the terms or  
26 conditions of approval of the application, as specified by the board  
27 in its written decision.

28 (3) A violation of this division or any regulation or order issued  
29 by the board under this division.

30 (b) The board may also administratively impose a civil penalty  
31 for a violation of paragraph (1) or (2) of subdivision (a). Any civil  
32 penalty shall be imposed in accordance with Section 25534.1 and  
33 may not exceed seventy-five thousand dollars (\$75,000) per  
34 violation, except that the civil penalty may be increased by an  
35 amount not to exceed one thousand five hundred dollars (\$1,500)  
36 per day for each day in which the violation occurs or persists, but  
37 the total of the per day penalties may not exceed fifty thousand  
38 dollars (\$50,000).

39 SEC. 254. Section 25534.1 of the Public Resources Code is  
40 amended to read:

1 25534.1. (a) The department may issue a complaint to any  
2 person or entity on whom an administrative civil penalty may be  
3 imposed pursuant to Section 25534. The complaint shall allege  
4 the act or failure to act for which the civil penalty is proposed, the  
5 provision of law authorizing civil liability, and the proposed civil  
6 penalty.

7 (b) The complaint shall be served by personal notice or certified  
8 mail, and shall inform the party so served that a hearing will be  
9 conducted within 60 days after the party has been served. The  
10 hearing shall be before the board. The complainant may waive the  
11 right to a hearing, in which case the board shall not conduct a  
12 hearing.

13 (c) After any hearing, the board may adopt, with or without  
14 revision, the proposed decision and order of the department.

15 (d) Orders setting an administrative civil penalty shall become  
16 effective and final upon issuance thereof, and any payment shall  
17 be made within 30 days. Copies of these orders shall be served by  
18 personal service or by registered mail upon the party served with  
19 the complaint and upon other persons who appeared at the hearing  
20 and requested a copy.

21 (e) In determining the amount of the administrative civil penalty,  
22 the board shall take into consideration the nature, circumstance,  
23 extent, and gravity of the violation or violations, whether the  
24 violation is susceptible to removal or resolution, the cost to the  
25 state in pursuing the enforcement action, and with respect to the  
26 violator, the ability to pay, the effect on ability to continue in  
27 business, any voluntary removal or resolution efforts undertaken,  
28 any prior history of violations, the degree of culpability, economic  
29 savings, if any, resulting from the violation, and such other matters  
30 as justice may require.

31 SEC. 255. Section 25534.2 of the Public Resources Code is  
32 amended to read:

33 25534.2. (a) Within 30 days after service of an order issued  
34 under Section 25534.1, any aggrieved party may file with the  
35 superior court a petition for writ of mandate for review thereof  
36 pursuant to Section 1094.5 of the Code of Civil Procedure. If no  
37 aggrieved party petition for a writ of mandate is filed within the  
38 time provided by this section, an order of the board is not subject  
39 to review by any court or agency, except that the board may grant

1 review on its own motion of an order issued under Section 25534.1  
2 after the expiration of the time limits set by this section.

3 (b) Upon request of the board, the Attorney General shall  
4 institute an action in the appropriate superior court to collect and  
5 recover any administrative civil penalties imposed pursuant to  
6 Section 25534.1. The court shall accord priority on its calendar to  
7 any action under this subdivision.

8 (c) Any moneys recovered by the board pursuant to this section  
9 shall be deposited in the General Fund.

10 SEC. 256. Section 25537 of the Public Resources Code is  
11 amended to read:

12 25537. Upon approval of an application by the board, the  
13 department shall forward to the United States Nuclear Regulatory  
14 Commission, the Environmental Protection Agency, and to other  
15 appropriate federal agencies, the results of its studies including  
16 the environmental impact report on the facility, the written decision  
17 on the facility contained in the application, and the board's  
18 determination of facility safety and reliability as provided in  
19 Section 25511.

20 SEC. 257. Section 25538 of the Public Resources Code is  
21 amended to read:

22 25538. Upon receiving the board's request for review under  
23 subdivision (f) of Section 25519 and Section 25506, the local  
24 agency may request a fee from the board to reimburse the local  
25 agency for the actual and added costs of this review by the local  
26 agency. The board shall reimburse the local agency for the added  
27 costs that shall be actually incurred by the local agency in  
28 complying with the board's request. The local agency may also  
29 request reimbursement for permit fees that the local agency would  
30 receive but for the operation of Section 25500, provided, however,  
31 that these fees may only be requested in accordance with actual  
32 services performed by the local agency. The board shall either  
33 request a fee from the person proposing the project or devote a  
34 special fund in its budget for the reimbursement of these costs  
35 incurred by local agencies.

36 SEC. 258. Section 25539 of the Public Resources Code is  
37 amended to read:

38 25539. In reviewing notices and applications for certification  
39 of modifications of existing facilities, the board shall adopt rules

1 and regulations as necessary to ensure that relevant duties pursuant  
2 to this division are carried out.

3 SEC. 259. Section 25540 of the Public Resources Code is  
4 amended to read:

5 25540. If a person proposes to construct a geothermal  
6 powerplant and related facility or facilities on a site, the board  
7 shall not require three alternative sites and related facilities to be  
8 proposed in the notice. Except as otherwise provided, the board  
9 shall issue its findings on the notice, as specified in Section 25514,  
10 within nine months from the date of filing of such notice, and shall  
11 issue its final decision on the application, as specified in Section  
12 25523, within nine months from the date of the filing of the  
13 application for certification, or at such later time as is mutually  
14 agreed to by the board and the applicant or person submitting the  
15 notice or application.

16 SEC. 260. Section 25540.1 of the Public Resources Code is  
17 amended to read:

18 25540.1. The board shall determine, within 30 days after the  
19 receipt of a notice or application for a geothermal powerplant,  
20 whether the notice or application is complete. If the notice or  
21 application is determined not to be complete, the board’s  
22 determination shall specify, in writing, those parts of the notice or  
23 application which are incomplete and shall indicate the manner in  
24 which it can be made complete. Within 30 days after receipt of  
25 the applicant’s filing with the board the additional information  
26 requested by the board to make the notice or application complete,  
27 the board shall determine whether the subsequent filing is sufficient  
28 to complete the notice or application. A notice or application shall  
29 be deemed filed for purposes of Section 25540 on the date the  
30 board determines the notice or application is completed if the board  
31 has adopted regulations specifying the informational requirements  
32 for a complete notice or application, but if the board has not  
33 adopted regulations, the notice or application shall be deemed filed  
34 on the last date the board receives any additional data that  
35 completes the notice or application.

36 SEC. 261. Section 25540.2 of the Public Resources Code is  
37 amended to read:

38 25540.2. Notwithstanding any other law:  
39 (a) If an applicant proposes to construct a geothermal powerplant  
40 at a site that, at the outset of the proceeding, the applicant can

1 reasonably demonstrate to be capable of providing geothermal  
2 resources in commercial quantities, a notice of intention pursuant  
3 to Section 25502 shall not be required, and the board shall issue  
4 the final decision on the application, as specified in Section 25523,  
5 within 12 months after acceptance of the application for  
6 certification of a geothermal powerplant and related facilities, or  
7 at a later time that is mutually agreed upon by the board and the  
8 applicant.

9 (b) Upon receipt of an application for certification of a  
10 geothermal powerplant and related facilities, the department shall  
11 transmit a copy of the application to every state and local agency  
12 having jurisdiction over land use in the area involved.

13 SEC. 262. Section 25540.3 of the Public Resources Code is  
14 amended to read:

15 25540.3. (a) An applicant for a geothermal powerplant may  
16 propose a site to be approved that will accommodate a potential  
17 maximum electric generating capacity in excess of the capacity  
18 being proposed for initial construction. In addition to the  
19 information concerning the initial powerplant and related facilities  
20 proposed for construction required pursuant to Section 25520, the  
21 application shall include all of the following, to the extent known:

22 (1) The number, type, and energy source of electric generating  
23 units that the site is proposed ultimately to accommodate and the  
24 maximum generating capacity for each unit.

25 (2) The projected installation schedule for each unit.

26 (3) The impact of the site, when fully developed, on the  
27 environment and public health and safety.

28 (4) The amount and sources of cooling water needed at the fully  
29 developed site.

30 (5) The general location and design of auxiliary facilities  
31 planned for each stage of development, including, but not limited  
32 to, pipelines, transmission lines, waste storage and disposal  
33 facilities, switchyards, and cooling ponds, lakes, or towers.

34 (6) Other information relating to the design, operation, and  
35 siting of the facility that the board may by regulation require.

36 (b) (1) If an application is filed pursuant to subdivision (a) that  
37 proposes a site to be approved that will accommodate a potential  
38 maximum electric generating capacity in excess of the capacity  
39 being proposed for initial construction, the board may, in its  
40 decision pursuant to subdivision (a) of Section 25540.3, either

1 certify only the initial facility or facilities proposed for initial  
2 construction or may certify the initial facility or facilities and find  
3 the site acceptable for additional generating capacity of the type  
4 tentatively proposed. The maximum allowable amount and type  
5 of such additional capacity shall be determined by the board.

6 (2) If the decision includes a finding that a particular site is  
7 suitable to accommodate a particular additional generating capacity,  
8 the site shall be designated a potential multiple-facility site. The  
9 board may, in determining the acceptability of a potential  
10 multiple-facility site, specify conditions or criteria necessary to  
11 ensure that future additional facilities will not exceed the  
12 limitations of the site.

13 SEC. 263. Section 25540.4 of the Public Resources Code is  
14 amended to read:

15 25540.4. Notwithstanding any other law:

16 (a) The decision of the board on an application for an additional  
17 facility at a potential multiple-facility site shall be issued within  
18 three months after the acceptance of the application or at a later  
19 time that is mutually agreed upon by the board and the applicant.

20 (b) In reviewing an application for an additional facility at a  
21 potential multiple-facility site, the board may, upon a showing of  
22 good cause, undertake a reconsideration of its prior determinations  
23 in the final report for the site pursuant to Section 25514 or its  
24 decision pursuant to Section 25523 based on current conditions  
25 and other reasonable alternatives to the proposed facility. The  
26 reconsideration must be completed within seven months after  
27 acceptance of the application for an additional facility.

28 (c) The board shall, pursuant to Section 21100.2, provide by  
29 resolution or order for completing and certifying the environmental  
30 impact report within the time limits established by subdivisions  
31 (a) and (b).

32 SEC. 264. Section 25540.5 of the Public Resources Code is  
33 amended to read:

34 25540.5. The board may, at the petition of a county that has  
35 adopted a geothermal element for its general plan, approve an  
36 equivalent certification program that delegates to that county full  
37 authority for the certification of all geothermal powerplants within  
38 that county. Once approved by the board, the equivalent  
39 certification program shall replace and supersede the procedures  
40 for certification of all geothermal powerplants and related facilities,

1 pursuant to Sections 25540 to 25540.4, inclusive, to be located  
2 within that county. The board may, after public hearings, revoke  
3 the approved equivalent certification program of the county if the  
4 board finds that the program does not comply with current board  
5 certification requirements. The equivalent certification program  
6 shall include, but not be limited to, provisions for all of the  
7 following:

8 (a) Certification of geothermal areas as potential multiple-facility  
9 sites, if so applied for.

10 (b) Processing of applications in less than 12 months.

11 (c) Periodic review and updating of the program by the county  
12 as may be required by law and the board.

13 (d) Appeal procedures, including appeals to the board on  
14 substantive issues. In any such appeal on a substantive issue, the  
15 board shall determine whether the act or decision is supported by  
16 substantial evidence in the light of the whole record. The board  
17 shall determine, within 15 days of receipt of an appeal, whether  
18 the appeal has merit and whether action should be taken.

19 (e) Input and review by other relevant public agencies and  
20 members of the public.

21 (f) Public hearing procedures equivalent to those specified in  
22 Article 6 (commencing with Section 65350) of Chapter 3 of Title  
23 7 of the Government Code.

24 SEC. 265. Section 25540.6 of the Public Resources Code is  
25 amended to read:

26 25540.6. (a) Notwithstanding any other law, a notice of  
27 intention is not required, and the board shall issue its final decision  
28 on the application, as specified in Section 25523, within 12 months  
29 after the filing of the application for certification of the powerplant  
30 and related facility or facilities, or at any later time that is mutually  
31 agreed upon by the board and the applicant, for any of the  
32 following:

33 (1) A thermal powerplant that will employ cogeneration  
34 technology, a thermal powerplant that will employ natural gas-fired  
35 technology, or a solar thermal powerplant.

36 (2) A modification of an existing facility.

37 (3) A thermal powerplant which it is only technologically or  
38 economically feasible to site at or near the energy source.

39 (4) A thermal powerplant with a generating capacity of up to  
40 100 megawatts.

1 (5) A thermal powerplant designed to develop or demonstrate  
2 technologies which have not previously been built or operated on  
3 a commercial scale. The research, development, or commercial  
4 demonstration project may include, but is not limited to, the use  
5 of renewable or alternative fuels, improvements in energy  
6 conversion efficiency, or the use of advanced pollution control  
7 systems. The facility may not exceed 300 megawatts unless the  
8 board, by regulation, authorizes a greater capacity. Section 25524  
9 does not apply to the powerplant and related facility or facilities.

10 (b) Projects exempted from the notice of intention requirement  
11 pursuant to paragraph (1), (4), or (5) of subdivision (a) shall  
12 include, in the application for certification, a discussion of the  
13 applicant's site selection criteria, any alternative sites that the  
14 applicant considered for the project, and the reasons why the  
15 applicant chose the proposed site. That discussion shall not be  
16 required for cogeneration projects at existing industrial sites. The  
17 board may also accept an application for a noncogeneration project  
18 at an existing industrial site without requiring a discussion of site  
19 alternatives if the board finds that the project has a strong  
20 relationship to the existing industrial site and that it is therefore  
21 reasonable not to analyze alternative sites for the project.

22 SEC. 266. Section 25541 of the Public Resources Code is  
23 amended to read:

24 25541. The board may exempt from this chapter thermal  
25 powerplants with a generating capacity of up to 100 megawatts  
26 and modifications to existing generating facilities that do not add  
27 capacity in excess of 100 megawatts, if the board finds that no  
28 substantial adverse impact on the environment or energy resources  
29 will result from the construction or operation of the proposed  
30 facility or from the modifications.

31 SEC. 267. Section 25541.5 of the Public Resources Code is  
32 amended to read:

33 25541.5. (a) On or before January 1, 2001, the Secretary of  
34 the Natural Resources Agency shall review the regulatory program  
35 conducted pursuant to this chapter that was certified pursuant to  
36 subdivision (j) of Section 15251 of Title 14 of the California Code  
37 of Regulations, to determine whether the regulatory program meets  
38 the criteria specified in Section 21080.5. If the Secretary of the  
39 Natural Resources Agency determines that the regulatory program

1 meets those criteria, he or she shall continue the certification of  
2 the regulatory program.

3 (b) If the Secretary of the Natural Resources Agency continues  
4 the certification of the regulatory program, the board shall amend  
5 the regulatory program from time to time, as necessary to permit  
6 the Secretary of the Natural Resources Agency to continue to  
7 certify the program.

8 (c) This section does not invalidate the certification of the  
9 regulatory program, as it existed on January 1, 2000, pending the  
10 review required by subdivision (a).

11 SEC. 268. Section 25542 of the Public Resources Code is  
12 amended to read:

13 25542. In the case of any site and related facility or facilities  
14 for which the provisions of this division do not apply, the exclusive  
15 power given to the board pursuant to Section 25500 to certify sites  
16 and related facilities shall not be in effect.

17 SEC. 269. Section 25543 of the Public Resources Code is  
18 amended to read:

19 25543. (a) It is the intent of the Legislature to improve the  
20 process of siting and licensing new thermal electric powerplants  
21 to ensure that these facilities can be sited in a timely manner, while  
22 protecting environmental quality and public participation in the  
23 siting process.

24 (b) The department shall prepare a report to the Governor and  
25 the Legislature on or before March 31, 2000, that identifies  
26 administrative and statutory measures that, preserving  
27 environmental protections and public participation, would improve  
28 the board's siting and licensing process for thermal powerplants  
29 of 50 megawatts and larger. The report shall include, but is not  
30 limited to, all of the following:

31 (1) An examination of potential process efficiencies associated  
32 with required hearings, site visits, and documents.

33 (2) A review of the impacts on both process efficiency and  
34 public participation of restrictions on communications between  
35 applicants, the public, and staff or decisionmakers.

36 (3) An assessment of means for improving coordination with  
37 the licensing activities of local jurisdictions and participation by  
38 other state agencies.

1 (4) An assessment of organizational structure issues including  
2 the adequacy of the amounts and organization of current technical  
3 and legal resources.

4 (5) Recommendations for administrative and statutory measures  
5 to improve the board's siting and licensing process.

6 (c) The board may immediately implement any administrative  
7 recommendations. Regulations, as identified in paragraph (5),  
8 adopted within 180 days of the effective date of this section may  
9 be adopted as emergency regulations in accordance with Chapter  
10 3.5 (commencing with Section 11340) of the Government Code.  
11 For purposes of that chapter, including Section 11349.6 of the  
12 Government Code, the adoption of the regulations shall be  
13 considered by the Office of Administrative Law to be necessary  
14 for the immediate preservation of the public peace, health, safety,  
15 and general welfare.

16 SEC. 270. Section 25601 of the Public Resources Code is  
17 amended to read:

18 25601. The department shall develop and coordinate a program  
19 of research and development in energy supply, consumption, and  
20 conservation and the technology of siting facilities and shall give  
21 priority to those forms of research and development that are of  
22 particular importance to the state, including, but not limited to, all  
23 of the following:

24 (a) Methods of energy conservation specified in Chapter 5  
25 (commencing with Section 25400).

26 (b) Increased energy use efficiencies of existing thermal electric  
27 and hydroelectric powerplants and increased energy efficiencies  
28 in designs of thermal electric and hydroelectric powerplants.

29 (c) Expansion and accelerated development of alternative  
30 sources of energy, including geothermal and solar resources,  
31 including, but not limited to, participation in large-scale  
32 demonstrations of alternative energy systems sited in California  
33 in cooperation with federal agencies, regional compacts, other  
34 state governments, and other participants. For purposes of this  
35 subdivision, "participation" shall be defined as any of the  
36 following: (1) direct interest in a project, (2) research and  
37 development to ensure acceptable resolution of environmental and  
38 other impacts of alternative energy systems, (3) research and  
39 development to improve siting and permitting methodology for  
40 alternative energy systems, (4) experiments utilizing the alternative

1 energy systems, and (5) research and development of appropriate  
2 methods to ensure the widespread utilization of economically  
3 useful alternative energy systems. Large-scale demonstrations of  
4 alternative energy systems are exemplified by the 100KW<sub>e</sub> to  
5 100MW<sub>e</sub> range demonstrations of solar, wind, and geothermal  
6 systems contemplated by federal agencies, regional compacts,  
7 other state governments, and other participants.

8 (d) Improved methods of construction, design, and operation  
9 of facilities to protect against seismic hazards.

10 (e) Improved methods of energy-demand forecasting.

11 (f) To accomplish the purposes of subdivision (c), an amount  
12 not more than one-half of the total state funds appropriated for the  
13 solar energy research and development program as proposed in  
14 the budget shall be allocated for large-scale demonstration of  
15 alternative energy systems.

16 SEC. 271. Section 25602 of the Public Resources Code is  
17 amended to read:

18 25602. The department shall carry out technical assessment  
19 studies on all forms of energy and energy-related problems, in  
20 order to influence federal research and development priorities and  
21 to be informed on future energy options and their impacts,  
22 including, in addition to those problems specified in Section 25601,  
23 but not limited to, the following:

24 (a) Advanced nuclear powerplant concepts, fusion, and fuel  
25 cells.

26 (b) Total energy concepts.

27 (c) New technology related to coastal and offshore siting of  
28 facilities.

29 (d) Expanded use of wastewater as cooling water and other  
30 advances in powerplant cooling.

31 (e) Improved methods of power transmission to permit interstate  
32 and interregional transfer and exchange of bulk electric power.

33 (f) Measures to reduce wasteful and inefficient uses of energy.

34 (g) Shifts in transportation modes and changes in transportation  
35 technology in relation to implications for energy consumption.

36 (h) Methods of recycling, extraction, processing, fabricating,  
37 handling, or disposing of materials, especially materials which  
38 require large commitments of energy.

39 (i) Expanded recycling of materials and its effect on energy  
40 consumption.

1 (j) Implications of government subsidies and taxation and  
2 ratesetting policies.

3 (k) Utilization of waste heat.

4 (l) Use of hydrogen as an energy form.

5 (m) Use of agricultural products, municipal wastes, and organic  
6 refuse as an energy source.

7 These assessments may also be conducted in order to determine  
8 which energy systems among competing technologies are most  
9 compatible with standards established pursuant to this division.

10 SEC. 272. Section 25603 of the Public Resources Code is  
11 amended to read:

12 25603. For research purposes, the department shall, in  
13 cooperation with other state agencies, participate in the design,  
14 construction, and operation of energy-conserving buildings using  
15 data developed pursuant to Section 25401, in order to demonstrate  
16 the economic and technical feasibility of those designs.

17 SEC. 273. Section 25603.5 of the Public Resources Code is  
18 repealed.

19 SEC. 274. Section 25605 of the Public Resources Code is  
20 amended to read:

21 25605. On or before November 1, 1978, the department, with  
22 the approval by the board, shall develop and adopt, in cooperation  
23 with affected industry and consumer representatives, and after one  
24 or more public hearings, regulations governing solar devices. The  
25 regulations shall be designed to encourage the development and  
26 use of solar energy and to provide maximum information to the  
27 public concerning solar devices. The regulations may include, but  
28 need not be limited to, any or all of the following:

29 (a) Standards for testing, inspection, certification, sizing, and  
30 installation of solar devices.

31 (b) Provisions for the enforcement of the standards. These  
32 provisions may include any or all of the following:

33 (1) Procedures for the accreditation by the department of  
34 laboratories to test and certify solar devices.

35 (2) Requirements for onsite inspection of solar devices,  
36 including specifying methods for inspection, to determine  
37 compliance or noncompliance with the standards.

38 (3) Requirements for submission to the department of any data  
39 resulting from the testing and inspection of solar devices.

1 (4) Prohibitions on the sale of solar devices that do not meet  
2 minimum requirements for safety and durability as established by  
3 the board.

4 (5) Dissemination of the results of the testing, inspection, and  
5 certification program to the public.

6 (c) In adopting the regulations, the department shall give due  
7 consideration to their effect on the cost of purchasing, installing,  
8 operating, and maintaining solar devices. The department, with  
9 the approval of the board, shall reassess the regulations as often  
10 as it deems necessary, based upon the value of the regulations in  
11 terms of benefits and disadvantages to the widespread adoption of  
12 solar energy systems and the need to encourage creativity and  
13 innovative adaptations of solar energy. The department may amend  
14 or repeal these regulations based on such reassessment.

15 (d) Under no circumstances may the department or the board  
16 preclude any person from developing, installing, or operating a  
17 solar device on his or her own property.

18 (e) Any violation of any regulation adopted by the board  
19 pursuant to this section may be enjoined in the same manner as is  
20 prescribed in Chapter 10 (commencing with Section 25900) of  
21 this division for enjoining a violation of this division.

22 SEC. 275. Section 25605.5 of the Public Resources Code is  
23 amended to read:

24 25605.5. Standards adopted by the board pursuant to Section  
25 25605, which are building standards as defined in Section 25488.5,  
26 shall be submitted to the State Building Standards Commission  
27 for approval pursuant to, and are governed by, the State Building  
28 Standards Law (Part 2.5 (commencing with Section 18901) of  
29 Division 13 of the Health and Safety Code). Building standards  
30 adopted by the board and published in the State Building Standards  
31 Code shall comply with, and be enforced as provided in, Section  
32 25605.

33 SEC. 276. Section 25608 of the Public Resources Code is  
34 amended to read:

35 25608. The department shall confer with officials of federal  
36 agencies, including the National Aeronautics and Space  
37 Administration, the National Institute of Standards and Technology,  
38 the Department of Energy, and the Department of Housing and  
39 Urban Development, to coordinate the adoption of regulations  
40 pursuant to Sections 25603 and 25605.

1 SEC. 277. Section 25609 of the Public Resources Code is  
2 amended to read:

3 25609. The board may, in adopting regulations pursuant to this  
4 chapter, specify the date when the regulations shall take effect.  
5 The board may specify different dates for different regulations.

6 SEC. 278. Section 25609.5 of the Public Resources Code is  
7 amended to read:

8 25609.5. The effective dates of building standards adopted by  
9 the board pursuant to Section 25609 are subject to approval  
10 pursuant to the provisions of the State Building Standards Law,  
11 Part 2.5 (commencing with Section 18901) of Part 13 of the Health  
12 and Safety Code.

13 SEC. 279. Section 25610 of the Public Resources Code is  
14 amended to read:

15 25610. For purposes of carrying out the provisions of this  
16 chapter, the department may contract with any person for materials  
17 and services that cannot be performed by its staff or other state  
18 agencies, and may apply for federal grants or any other funding.

19 SEC. 280. Section 25616 of the Public Resources Code is  
20 amended to read:

21 25616. (a) It is the intent of the Legislature to encourage local  
22 agencies to expeditiously review permit applications to site energy  
23 projects, and to encourage energy project developers to consider  
24 all cost-effective and environmentally superior alternatives that  
25 achieve their project objectives.

26 (b) Subject to the availability of funds appropriated therefor,  
27 the department shall provide technical assistance and grants-in-aid  
28 to assist local agencies to do either or both of the following:

29 (1) Site energy production or transmission projects that are not  
30 otherwise subject to Chapter 6 (commencing with Section 25500).

31 (2) Integrate into their planning processes, and incorporate into  
32 their general plans, methods to achieve cost-effective energy  
33 efficiency.

34 (c) The department shall provide assistance at the request of  
35 local agencies.

36 (d) As used in this section, an energy project is any project  
37 designed to produce, convert, or transmit energy as one of its  
38 primary functions.

39 SEC. 281. Section 25617 of the Public Resources Code is  
40 amended to read:

1 25617. (a) It is the intent of the Legislature to preserve  
2 diversity of energy resources, including diversity of resources used  
3 in electric generation facilities, industrial and commercial  
4 applications, and transportation.

5 (b) The department shall, within the limits of available funds,  
6 provide technical assistance and support for the development of  
7 petroleum diesel fuels that are as clean or cleaner than alternative  
8 clean fuels and clean diesel engines. That technical assistance and  
9 support may include the creation of research, development, and  
10 demonstration programs.

11 SEC. 282. Section 25618 of the Public Resources Code is  
12 amended to read:

13 25618. (a) The department shall facilitate development and  
14 commercialization of ultra low- and zero-emission electric vehicles  
15 and advanced battery technologies, as well as development of an  
16 infrastructure to support maintenance and fueling of those vehicles  
17 in California. Facilitating commercialization of ultra low- and  
18 zero-emission electric vehicles in California shall include, but not  
19 be limited to, the following:

20 (1) The department may, in cooperation with county, regional,  
21 and city governments, the state's public and private utilities, and  
22 the private business sector, develop plans for accelerating the  
23 introduction and use of ultra low- and zero-emission electric  
24 vehicles throughout California's air quality nonattainment areas,  
25 and for accelerating the development and implementation of the  
26 necessary infrastructure to support the planned use of those vehicles  
27 in California. These plans shall be consistent with, but not limited  
28 to, the criteria for similar efforts contained in federal loan, grant,  
29 or matching fund projects.

30 (2) In coordination with other state agencies, the department  
31 shall seek to maximize the state's use of federal programs, loans,  
32 and matching funds available to states for ultra low- and  
33 zero-emission electric vehicle development and demonstration  
34 programs, and infrastructure development projects.

35 (b) Priority for implementing demonstration projects under this  
36 section shall be directed toward those areas of the state currently  
37 in a nonattainment status with federal and state air quality  
38 regulations.

39 SEC. 283. Section 25620 of the Public Resources Code is  
40 amended to read:

1 25620. The Legislature hereby finds and declares all of the  
2 following:

3 (a) It is in the best interests of the people of this state that the  
4 quality of life of its citizens be improved by providing  
5 environmentally sound, safe, reliable, and affordable energy  
6 services and products.

7 (b) To improve the quality of life of this state’s citizens, it is  
8 proper and appropriate for the state to undertake public interest  
9 energy research, development, and demonstration projects that are  
10 not adequately provided for by competitive and regulated energy  
11 markets.

12 (c) Public interest energy research, demonstration, and  
13 development projects should advance energy science or  
14 technologies of value to California citizens and should be consistent  
15 with the policies of this chapter.

16 (d) It is in the best interest of the people of California for the  
17 board and the department to positively contribute to the overall  
18 economic climate of the state within the roles and responsibilities  
19 of the board and the department as defined by statute, regulation,  
20 and other official government authority, including, but not limited  
21 to, providing economic benefits to California-based entities.

22 SEC. 284. Section 25620.1 of the Public Resources Code is  
23 amended to read:

24 25620.1. (a) The department shall develop, implement, and  
25 administer the Public Interest Research, Development, and  
26 Demonstration Program that is hereby created. The program shall  
27 include a full range of research, development, and demonstration  
28 activities that, as determined by the board, are not adequately  
29 provided for by competitive and regulated markets. The department  
30 shall administer the program consistent with the policies of this  
31 chapter.

32 (b) The general goal of the program is to develop, and help bring  
33 to market, energy technologies that provide increased  
34 environmental benefits, greater system reliability, and lower system  
35 costs, and that provide tangible benefits to electric utility customers  
36 through the following investments:

37 (1) Advanced transportation technologies that reduce air  
38 pollution and greenhouse gas emissions beyond applicable  
39 standards, and that benefit electricity and natural gas ratepayers.

1 (2) Increased energy efficiency in buildings, appliances, lighting,  
2 and other applications beyond applicable standards, and that benefit  
3 electric utility customers.

4 (3) Advanced electricity generation technologies that exceed  
5 applicable standards to increase reductions in greenhouse gas  
6 emissions from electricity generation, and that benefit electric  
7 utility customers.

8 (4) Advanced electricity technologies that reduce or eliminate  
9 consumption of water or other finite resources, increase use of  
10 renewable energy resources, or improve transmission or distribution  
11 of electricity generated from renewable energy resources.

12 (c) To achieve the goals established in subdivision (b), the  
13 department shall adopt a portfolio approach for the program that  
14 does all of the following:

15 (1) Effectively balances the risks, benefits, and time horizons  
16 for various activities and investments that will provide tangible  
17 energy or environmental benefits for California electricity  
18 customers.

19 (2) Emphasizes innovative energy supply and end-use  
20 technologies, focusing on their reliability, affordability, and  
21 environmental attributes.

22 (3) Includes projects that have the potential to enhance  
23 transmission and distribution capabilities.

24 (4) Includes projects that have the potential to enhance the  
25 reliability, peaking power, and storage capabilities of renewable  
26 energy.

27 (5) Demonstrates a balance of benefits to all sectors that  
28 contribute to the funding under Section 399.8 of the Public Utilities  
29 Code.

30 (6) Addresses key technical and scientific barriers.

31 (7) Demonstrates a balance between short-term, mid-term, and  
32 long-term potential.

33 (8) Ensures that prior, current, and future research not be  
34 unnecessarily duplicated.

35 (9) Provides for the future market utilization of projects funded  
36 through the program.

37 (10) Ensures an open project selection process and encourages  
38 the awarding of research funding for a diverse type of research as  
39 well as a diverse award recipient base and equally considers  
40 research proposals from the public and private sectors.

1 (11) Coordinates with other related research programs.  
 2 (d) The term “award,” as used in this chapter, may include, but  
 3 is not limited to, contracts, grants, interagency agreements, loans,  
 4 and other financial agreements designed to fund public interest  
 5 research, demonstration, and development projects or programs.

6 SEC. 285. Section 25620.2 of the Public Resources Code is  
 7 amended to read:

8 25620.2. (a) To ensure the efficient implementation and  
 9 administration of the Public Interest Research, Development, and  
 10 Demonstration Program, the department shall do both of the  
 11 following:

12 (1) Develop procedures for the solicitation of award applications  
 13 for project or program funding, and to ensure efficient program  
 14 management.

15 (2) Evaluate and select programs and projects, based on merit,  
 16 that will be funded under the program.

17 (b) The department shall recommend and the board shall adopt  
 18 regulations to implement the program, in accordance with the  
 19 following procedures:

20 (1) Prepare a preliminary text of the proposed regulation and  
 21 provide a copy of the preliminary text to any person requesting a  
 22 copy.

23 (2) Provide public notice of the proposed regulation to any  
 24 person who has requested notice of the regulations prepared by  
 25 the department. The notice shall contain all of the following:

26 (A) A clear overview explaining the proposed regulation.

27 (B) Instructions on how to obtain a copy of the proposed  
 28 regulations.

29 (C) A statement that if a public hearing is not scheduled for the  
 30 purpose of reviewing a proposed regulation, any person may  
 31 request, not later than 15 days prior to the close of the written  
 32 comment period, a public hearing conducted in accordance with  
 33 board procedures.

34 (3) Accept written public comments for 30 calendar days after  
 35 providing the notice required in paragraph (2).

36 (4) Certify that all written comments were read and considered  
 37 by the board.

38 (5) Place all written comments in a record that includes copies  
 39 of any written factual support used in developing the proposed  
 40 regulation, including written reports and copies of any transcripts

1 or minutes in connection with any public hearings on the adoption  
2 of the regulation. The record shall be open to public inspection  
3 and available to the courts.

4 (6) Provide public notice of any substantial revision of the  
5 proposed regulation at least 15 days prior to the expiration of the  
6 deadline for public comments and comment period using the  
7 procedures provided in paragraph (2).

8 (7) Conduct public hearings before the board, if a hearing is  
9 requested by an interested party, that shall be conducted in  
10 accordance with board procedures.

11 (8) Adopt any proposed regulation at a regularly scheduled and  
12 noticed meeting of the board. The regulation shall become effective  
13 immediately unless otherwise provided by the board.

14 (9) Publish any adopted regulation in a manner that makes copies  
15 of the regulation easily available to the public. Any adopted  
16 regulation shall also be made available on the Internet. The  
17 department shall transmit a copy of an adopted regulation to the  
18 Office of Administrative Law for publication, or, if the board  
19 determines that printing the regulation is impractical, an appropriate  
20 reference as to where a copy of the regulation may be obtained.

21 (10) Notwithstanding any other provision of law, this  
22 subdivision provides an interim exception from the requirements  
23 of Chapter 3.5 (commencing with Section 11340) of Part 1 of  
24 Division 3 of Title 2 of the Government Code for regulations  
25 required to implement Sections 25620.1 and 25620.2 that are  
26 adopted under the procedures specified in this subdivision.

27 (11) This subdivision shall become inoperative on January 1,  
28 2012, unless a later enacted statute deletes or extends that date.  
29 However, after January 1, 2012, the board is not required to repeat  
30 any procedural step in adopting a regulation that has been  
31 completed before January 1, 2012, using the procedures specified  
32 in this subdivision.

33 SEC. 286. Section 25620.3 of the Public Resources Code is  
34 amended to read:

35 25620.3. (a) The department, by action of the board, may,  
36 consistent with the requirements of this chapter, provide awards  
37 to any individual or entity for planning, implementation, and  
38 administration of projects or programs selected pursuant to Section  
39 25620.5.

1 (b) The department, by action of the board, may provide an  
2 award to a project or program that includes a group of related  
3 projects, or to a party who aggregates projects that directly benefit  
4 from the award.

5 (c) The department, by action of the board, may establish  
6 multiparty agreements. In a multiparty agreement, the department,  
7 by action of the board, may be a signatory to a common agreement  
8 among two or more parties. These agreements include, but are not  
9 limited to, cofunding, leveraged research, collaborations, and  
10 membership arrangements. If the department, by action of the  
11 board, enters into these agreements, it shall be a party to these  
12 agreements and may share in the roles, responsibilities, risks,  
13 investments, and results.

14 (d) The department, by action of the board, may issue awards  
15 that include the ability to make advance payments to prime  
16 contractors, to enable them to make advance payments to a  
17 subcontractor that is a federal agency, national laboratory, or state  
18 entity, on the condition that the subcontract is binding and  
19 enforceable and includes specific performance milestones.

20 (e) The department, by action of the board, may issue awards  
21 that include the ability to assign tasks on a work authorization  
22 basis.

23 (f) Prior to making any award pursuant to this chapter for a  
24 research, development, or demonstration program or project, the  
25 department shall identify the expected costs and any qualitative  
26 or quantitative benefits of the proposed program or project.

27 SEC. 287. Section 25620.4 of the Public Resources Code is  
28 amended to read:

29 25620.4. (a) To the extent that intellectual property is  
30 developed under this chapter, an equitable share of rights in the  
31 intellectual property or in the benefits derived therefrom shall  
32 accrue to the State of California.

33 (b) The department, by action of the board, may determine what  
34 share, if any, of the intellectual property, or the benefits derived  
35 therefrom, shall accrue to the state. The department may negotiate  
36 sharing mechanisms for intellectual property or benefits with award  
37 recipients.

38 SEC. 288. Section 25620.5 of the Public Resources Code is  
39 amended to read:

1 25620.5. (a) The department may solicit applications for  
2 awards, using a sealed competitive bid, competitive negotiation  
3 process, department-issued intradepartmental master agreement,  
4 the methods for selection of professional services firms set forth  
5 in Chapter 10 (commencing with Section 4525) of Division 5 of  
6 Title 1 of the Government Code, interagency agreement, single  
7 source, or sole source method. When scoring teams are convened  
8 to review and score proposals, the scoring teams may include  
9 persons not employed by the department, as long as employees of  
10 the state constitute no less than 50 percent of the membership of  
11 the scoring team. A person participating on a scoring team may  
12 not have any conflict of interest with respect to the proposal before  
13 the scoring team.

14 (b) A sealed bid method may be used when goods and services  
15 to be acquired can be described with sufficient specificity so that  
16 bids can be evaluated against specifications and criteria set forth  
17 in the solicitation for bids.

18 (c) The department may use a competitive negotiation process  
19 in any of the following circumstances:

20 (1) Whenever the desired award is not for a fixed price.

21 (2) Whenever project specifications cannot be drafted in  
22 sufficient detail so as to be applicable to a sealed competitive bid.

23 (3) Whenever there is a need to compare the different price,  
24 quality, and structural factors of the bids submitted.

25 (4) Whenever there is a need to afford bidders an opportunity  
26 to revise their proposals.

27 (5) Whenever oral or written discussions with bidders  
28 concerning the technical and price aspects of their proposals will  
29 provide better results to the state.

30 (6) Whenever the price of the award is not the determining  
31 factor.

32 (d) The department, by action of the board, may establish  
33 interagency agreements.

34 (e) The department, by action of the board, may provide awards  
35 on a single source basis by choosing from among two or more  
36 parties or by soliciting multiple applications from parties capable  
37 of supplying or providing similar goods or services. The cost to  
38 the state shall be reasonable and the department may only enter  
39 into a single source agreement with a particular party if the

1 department, by action of the board, determines that it is in the  
2 state's best interests.

3 (f) The department, by action of the board, in accordance with  
4 subdivision (g) and in consultation with the Department of General  
5 Services, may provide awards on a sole source basis when the cost  
6 to the state is reasonable and the department, by action of the board,  
7 makes any of the following determinations:

8 (1) The proposal was unsolicited and meets the evaluation  
9 criteria of this chapter.

10 (2) The expertise, service, or product is unique.

11 (3) A competitive solicitation would frustrate obtaining  
12 necessary information, goods, or services in a timely manner.

13 (4) The award funds the next phase of a multiphased proposal  
14 and the existing agreement is being satisfactorily performed.

15 (5) When it is determined by the department to be in the best  
16 interests of the state.

17 (g) The department may not use a sole source basis for an award  
18 pursuant to subdivision (f), unless both of the following conditions  
19 are met:

20 (1) The board, at least 60 days prior to taking an action pursuant  
21 to subdivision (f), notifies the Joint Legislative Budget Committee  
22 and the relevant policy committees in both houses of the  
23 Legislature, in writing, of its intent to take the proposed action.

24 (2) The Joint Legislative Budget Committee either approves or  
25 does not disapprove the proposed action within 60 days from the  
26 date of notification required by paragraph (1).

27 (h) The department shall give priority to California-based entities  
28 in making awards pursuant to this chapter.

29 (i) The provisions of this section are severable. If any provision  
30 of this section or its application is held to be invalid, that invalidity  
31 does not affect other provisions or applications that can be given  
32 effect without the invalid provision or application.

33 For purposes of this section and Section 25620, "California-based  
34 entity" means either of the following:

35 A corporation or other business form organized for the  
36 transaction of business that has its headquarters in California and  
37 manufactures in California the product that qualifies for the  
38 incentive or award, or a corporation or other business form  
39 organized for the transaction of business that has an office for the  
40 transaction of business in California and substantially manufactures

1 in California the product that qualifies for the incentive or award,  
2 or substantially develops within California the research that  
3 qualifies for the incentive or award, as determined by the agency  
4 issuing the incentive or award.

5 SEC. 289. Section 25620.6 of the Public Resources Code is  
6 amended to read:

7 25620.6. The department, by action of the board and in  
8 consultation with the Department of General Services, may  
9 purchase insurance coverage necessary to implement an award.  
10 Funding for the purchase of insurance may be made from money  
11 in the Public Interest Research, Development, and Demonstration  
12 Fund created pursuant to Section 384 of the Public Utilities Code.

13 SEC. 290. Section 25620.7 of the Public Resources Code is  
14 amended to read:

15 25620.7. (a) The department, by action of the board, may  
16 contract for, or through interagency agreement obtain, technical,  
17 scientific, or administrative services or expertise from one or more  
18 entities, to support the program. Funding for this purpose shall be  
19 made from money in the Public Interest Research, Development,  
20 and Demonstration Fund.

21 (b) The department, by action of the board, may select the  
22 services or expertise described in subdivision (a), pursuant to  
23 Section 25620.5. In the event that contracts or interagency  
24 agreements have been made to multiple entities and their  
25 subcontractors for similar purposes, the commission may select  
26 from among those entities the particular expertise needed for a  
27 specified type of work. Selection of the particular expertise may  
28 be based solely on a review of qualifications, including the specific  
29 expertise required, availability of the expertise, or access to a  
30 resource of special relevance to the work, including, but not limited  
31 to, a database, model, technical facility, or a collaborative or  
32 institutional affiliation that will expedite the quality and  
33 performance of the work.

34 SEC. 291. Section 25620.8 of the Public Resources Code is  
35 amended to read:

36 25620.8. The department shall prepare and submit to the  
37 Legislature an annual report that is approved by the board, not  
38 later than March 31 of each year, on awards made pursuant to this  
39 chapter and progress toward achieving the goals set forth in Section  
40 25620.1. The report shall include information on the names of

1 award recipients, the amount of awards, and the types of projects  
2 funded, an evaluation of the success of funded projects, and  
3 recommendations for improvements in the program. The report  
4 shall set forth the actual costs of programs or projects funded by  
5 the department, the results achieved, and how the actual costs and  
6 results compare to the expected costs and benefits. The department  
7 shall establish procedures for protecting confidential or proprietary  
8 information and shall consult with all interested parties in the  
9 preparation of the annual report.

10 SEC. 292. Section 25620.11 of the Public Resources Code is  
11 amended to read:

12 25620.11. (a) The department shall regularly convene an  
13 advisory committee that shall make recommendations to guide the  
14 department's selection of programs and projects to be funded under  
15 this chapter. The advisory committee shall include as appropriate,  
16 but not be limited to, representatives from the Public Utilities  
17 Commission, consumer organizations, environmental organizations,  
18 and electrical corporations subject to the funding requirements of  
19 Section 381 of the Public Utilities Code.

20 (b) Three members of the Senate, appointed by the Senate  
21 President pro Tempore, and three members of the Assembly,  
22 appointed by the Speaker of the Assembly, may meet with the  
23 advisory committee and participate in its activities to the extent  
24 that such participation is not incompatible with their respective  
25 positions as Members of the Legislature.

26 SEC. 293. Section 25630 of the Public Resources Code is  
27 amended to read:

28 25630. (a) The department shall establish a small business  
29 energy assistance low-interest revolving loan program to fund the  
30 purchase of equipment for alternative technology energy projects  
31 for California's small businesses.

32 (b) Loan repayments, interest, and royalties shall be deposited  
33 in the Energy Technologies Research, Development, and  
34 Demonstration Account. The interest rate shall be based on surveys  
35 of existing financial markets and at rates not lower than the Pooled  
36 Money Investment Account.

37 SEC. 294. Section 25650 of the Public Resources Code is  
38 amended to read:

39 25650. (a) All funds from loan repayments and interest that  
40 become due and payable for loans made by the department pursuant

1 to an agriculture energy assistance program shall be deposited in  
2 the Energy Technologies Research, Development, and  
3 Demonstration Account, and shall be available for loans and  
4 technical assistance pursuant to this section, upon appropriation  
5 in the Budget Act. Up to 20 percent of the annual appropriation  
6 may be available for technical assistance.

7 (b) Loans made pursuant to this section shall be for the purchase  
8 of equipment and services for agriculture energy efficiency and  
9 development demonstration projects, including, but not limited to,  
10 production of methane or ethanol, use of wind, photovoltaics, and  
11 other sources of energy for irrigation pumping, application of load  
12 management conservation techniques, improvements in water  
13 pumping and pressurization techniques, and conservation tillage  
14 techniques.

15 (c) The loans shall contain terms that provide for a repayment  
16 period of not more than seven years and for interest at a rate that  
17 is not less than 2 percent below the rate earned by moneys in the  
18 Pooled Money Investment Account.

19 SEC. 295. Section 25678 of the Public Resources Code is  
20 amended to read:

21 25678. The department, by action of the board, shall establish  
22 a grant program which provides a forty cent (\$0.40) per gallon  
23 production incentive for liquid fuels fermented in this state from  
24 biomass and biomass-derived resources produced in this state.  
25 Eligible liquid fuels include, but are not limited to, ethanol,  
26 methanol, and vegetable oils. Eligible biomass resources include,  
27 but are not limited to, agricultural products and byproducts, forestry  
28 products and byproducts, and industrial wastes. The board shall  
29 adopt rules and regulations necessary to implement the program.  
30 Prior to determining an applicant eligible for participation in the  
31 production incentive program, the board shall find, among other  
32 things, that the production techniques employed will lead to a net  
33 increase in the amount of energy available for consumption.

34 SEC. 296. Section 25679 of the Public Resources Code is  
35 amended to read:

36 25679. Applicants for a grant under this chapter shall submit  
37 an application on a form prescribed by the department that is  
38 responsible for administration of the program.

39 SEC. 297. Section 25696 of the Public Resources Code is  
40 amended to read:

1 25696. The department may assist California-based energy  
2 technology and energy conservation firms to export their  
3 technologies, products, and services to international markets.

4 The department may do all of the following:

5 (a) Conduct a technical assistance program to help California  
6 energy companies improve export opportunities and enhance  
7 foreign buyers' awareness of and access to energy technologies  
8 and services offered by California-based companies. Technical  
9 assistance activities may include, but are not limited to, an energy  
10 technology export information clearinghouse, a referral service, a  
11 trade lead service consulting services for financing, market  
12 evaluation, and legal counseling, and information seminars.

13 (b) Perform research studies and solicit technical advice to  
14 identify international market opportunities.

15 (c) Assist California energy companies to evaluate project or  
16 site-specific energy needs of international markets.

17 (d) Assist California energy companies to identify and address  
18 international trade barriers restricting energy technology exports,  
19 including unfair trade practices and discriminatory trade laws.

20 (e) Develop promotional materials in conjunction with California  
21 energy companies to expand energy technology exports.

22 (f) Establish technical exchange programs to increase foreign  
23 buyers' awareness of suitable energy technology uses.

24 (g) Prepare equipment performance information to enhance  
25 potential export opportunities.

26 (h) Coordinate activities with state, federal, and international  
27 donor agencies to take advantage of trade promotion and financial  
28 assistance efforts offered.

29 SEC. 298. Section 25696.5 of the Public Resources Code is  
30 amended to read:

31 25696.5. (a) Every California-based energy technology and  
32 energy conservation firm awarded direct financial assistance  
33 pursuant to Section 25696 shall reimburse the department for that  
34 assistance, when both of the following conditions have been met:

35 (1) The assistance was substantial and essential for the  
36 completion of a specific identifiable project.

37 (2) The resulting project is producing revenues.

38 (b) All moneys appropriated for purposes of this chapter and  
39 all moneys received by the department as reimbursement under  
40 this section shall be deposited in the Energy Resources Programs

1 Account and shall be available, when appropriated by the  
2 Legislature, for the purposes of this chapter.

3 SEC. 299. Section 25697 of the Public Resources Code is  
4 amended to read:

5 25697. The department shall consult with the California State  
6 World Trade Commission with respect to conducting overseas  
7 trade missions, trade shows, and trade exhibits. Consultation may  
8 include interagency agreements, cosponsorship, and memoranda  
9 of understanding for joint overseas trade activities.

10 SEC. 300. Section 25700 of the Public Resources Code is  
11 amended to read:

12 25700. The department shall, in accordance with the provisions  
13 of this chapter, develop contingency plans to deal with possible  
14 shortages of electrical energy or fuel supplies to protect public  
15 health, safety, and welfare.

16 SEC. 301. Section 25701 of the Public Resources Code is  
17 amended to read:

18 25701. (a) Within six months after the effective date of this  
19 division, each electric utility, gas utility, and fuel wholesaler or  
20 manufacturer in the state shall prepare and submit to the department  
21 a proposed emergency load curtailment plan or emergency energy  
22 supply distribution plan setting forth proposals for identifying  
23 priority loads or users in the event of a sudden and serious shortage  
24 of fuels or interruption in the generation of electricity.

25 (b) The department shall encourage electric utilities to cooperate  
26 in joint preparation of an emergency load curtailment plan or  
27 emergency energy supply distribution plan. If this cooperative plan  
28 is developed between two or more electric utilities, the utilities  
29 may submit the joint plans to the department in place of individual  
30 plans required by subdivision (a) of this section.

31 (c) The department shall collect from all relevant governmental  
32 agencies, including, but not limited to, the Public Utilities  
33 Commission and the Office of Emergency Services, any existing  
34 contingency plans for dealing with sudden energy shortages or  
35 information related thereto.

36 SEC. 302. Section 25702 of the Public Resources Code is  
37 amended to read:

38 25702. The department shall, after one or more public hearings,  
39 review the emergency load curtailment program plans or  
40 emergency energy supply distribution plans submitted pursuant

1 to Section 25701, and, on or before January 6, 1975, the department  
2 shall approve and recommend to the Governor and the Legislature  
3 plans for emergency load curtailment and energy supply  
4 distribution in the event of a sudden energy shortage. Those plans  
5 shall be based upon the plans presented by the electric utilities,  
6 gas utilities, and fuel wholesalers or manufacturers, information  
7 provided by other governmental agencies, independent analysis  
8 and study by the department and information provided at the  
9 hearing or hearings. Those plans shall provide for the provision  
10 of essential services, the protection of public health, safety, and  
11 welfare, and the maintenance of a sound basic state economy.  
12 Provision shall be made in such plans to eliminate wasteful,  
13 uneconomic, and unnecessary uses of energy in times of shortages  
14 and to differentiate curtailment of energy consumption by users  
15 on the basis of ability to accommodate such curtailments. Those  
16 plans shall also specify the authority of and recommend the  
17 appropriate actions of state and local governmental agencies in  
18 dealing with energy shortages.

19 SEC. 303. Section 25703 of the Public Resources Code is  
20 amended to read:

21 25703. Within four months after the date of certification of  
22 any new facility, the department shall review and revise the  
23 recommended plans based on additional new capacity attributed  
24 to that facility. The department shall, after one or more public  
25 hearings, review the plans at least every five years from the  
26 approval of the initial plan as specified in Section 25702.

27 SEC. 304. Section 25704 of the Public Resources Code is  
28 amended to read:

29 25704. The department shall carry out studies to determine if  
30 potential serious shortages of electrical, natural gas, or other  
31 sources of energy are likely to occur and shall make  
32 recommendations to the Governor and the Legislature concerning  
33 administrative and legislative actions required to avert possible  
34 energy supply emergencies or serious fuel shortages, including,  
35 but not limited to, energy conservation and energy development  
36 measures, to grant authority to specific governmental agencies or  
37 officers to take actions in the event of a sudden energy shortage,  
38 and to clarify and coordinate existing responsibilities for energy  
39 emergency actions.

1 SEC. 305. Section 25705 of the Public Resources Code is  
2 amended to read:

3 25705. (a) If the department determines that all reasonable  
4 conservation, allocation, and service restriction measures may not  
5 alleviate an energy supply emergency, and upon a declaration by  
6 the Governor or by an act of the Legislature that a threat to public  
7 health, safety, and welfare exists and requires immediate action,  
8 the department shall authorize the construction and use of  
9 generating facilities under terms and conditions as specified by  
10 the department to protect the public interest.

11 (b) Within 60 days after the authorization of construction and  
12 use of the generating facilities, the department shall issue a report  
13 detailing the full nature, extent, and estimated duration of the  
14 emergency situation and making recommendations to the Governor  
15 and the Legislature for further energy conservation and energy  
16 supply measures to alleviate the emergency situation as alternatives  
17 to use of the generating facilities.

18 SEC. 306. Section 25720 of the Public Resources Code is  
19 amended to read:

20 25720. (a) By January 31, 2002, the department shall examine  
21 the feasibility, including possible costs and benefits to consumers  
22 and impacts on fuel prices for the general public, of operating a  
23 strategic fuel reserve to insulate California consumers and  
24 businesses from substantial short-term price increases arising from  
25 refinery outages and other similar supply interruptions. In  
26 evaluating the potential operation of a strategic fuel reserve, the  
27 department shall consult with other state agencies, including, but  
28 not limited to, the State Air Resources Board.

29 (b) The department shall examine and recommend an appropriate  
30 level of reserves of fuel, but in no event may the reserve be less  
31 than the amount of refined fuel that the department estimates could  
32 be produced by the largest California refiner over a two week  
33 period. In making this examination and recommendation, the  
34 department shall take into account all of the following:

35 (1) Inventories of California-quality fuels or fuel components  
36 reasonably available to the California market.

37 (2) Current and historic levels of inventory of fuels.

38 (3) The availability and cost of storage of fuels.

39 (4) The potential for future supply interruptions, price spikes,  
40 and the costs thereof to California consumers and businesses.

1 (c) The department shall evaluate a mechanism to release fuel  
2 from the reserve that permits any customer to contract at any time  
3 for the delivery of fuel from the reserve in exchange for an equal  
4 amount of fuel that meets California specifications and is produced  
5 from a source outside of California that the customer agrees to  
6 deliver back to the reserve within a time period to be established  
7 by the department, but not longer than six weeks.

8 (d) The department shall evaluate reserve storage space from  
9 existing facilities.

10 (e) The department shall evaluate a reserve operated by an  
11 independent operator that specializes in purchasing and storing  
12 fuel, and is selected through competitive bidding.

13 (f) (1) Not later than January 31, 2002, the department and the  
14 State Air Resources Board, in consultation with the other state and  
15 local agencies the department deems necessary, shall develop and  
16 adopt recommendations for the Governor and the Legislature on  
17 a California Strategy to Reduce Petroleum Dependence.

18 (2) The strategy shall include a base case forecast by the  
19 department of gasoline, diesel, and petroleum consumption in years  
20 2010 and 2020 based on current best estimates of economic and  
21 population growth, petroleum base fuel supply and availability,  
22 vehicle efficiency, and utilization of alternative fuels and advanced  
23 transportation technologies.

24 (3) The strategy shall include recommended statewide goals for  
25 reductions in the rate of growth of gasoline and diesel fuel  
26 consumption and increased transportation energy efficiency and  
27 utilization of nonpetroleum-based fuels and advanced transportation  
28 technologies, including alternative fueled vehicles, hybrid vehicles,  
29 and high fuel efficiency vehicles.

30 (g) The studies required by this section shall be conducted in  
31 conjunction with any other studies required by acts enacted during  
32 the 2000 portion of the 1999–2000 Regular Session dealing with  
33 gasoline prices.

34 SEC. 307. Section 25721 of the Public Resources Code is  
35 amended to read:

36 25721. The department shall report its findings and  
37 recommendations for the purposes of Section 25720 to the  
38 Governor, the Legislature, and the Attorney General by January  
39 31, 2002. If the department finds that it would be feasible to operate  
40 a strategic gas reserve to insulate California consumers and

1 businesses from substantial, short-term price increases arising from  
2 refinery outages or other similar supply interruptions, the  
3 department shall request specific statutory authority and funding  
4 for establishment of a reserve.

5 SEC. 308. Section 25722 of the Public Resources Code is  
6 amended to read:

7 25722. (a) On or before January 31, 2003, the department, the  
8 Department of General Services, and the State Air Resources  
9 Board, in consultation with any other state agency that the  
10 department, the Department of General Services, and the state  
11 board deem necessary, shall develop and adopt fuel-efficiency  
12 specifications governing the purchase by the state of motor vehicles  
13 and replacement tires that, on an annual basis, will reduce  
14 petroleum consumption of the state vehicle fleet to the maximum  
15 extent practicable and cost effective.

16 (b) In developing the specifications, the department and the  
17 Department of General Services shall jointly conduct a study to  
18 examine state vehicle purchasing patterns, including the purchase  
19 of after market tires, and to analyze the costs and benefits of  
20 reducing the energy consumption of the state vehicle fleet by no  
21 less than 10 percent on or before January 1, 2005.

22 (c) The study shall include an analysis of all of the following  
23 topics:

24 (1) Use of alternative fuels.

25 (2) Use of fuel-efficient vehicles.

26 (3) Costs and benefits of decreasing the size of the state vehicle  
27 fleet.

28 (4) Reduction in vehicle trips and increase in use of alternative  
29 means of transportation.

30 (5) Improved vehicle maintenance.

31 (6) Costs and benefits of using fuel-efficient tires relative to  
32 using retreaded tires, as described in the Retreaded Tire Program  
33 (Chapter 7 (commencing with Section 42400) of Part 3 of Division  
34 30).

35 (7) The costs and benefits of purchasing high fuel efficiency  
36 gasoline vehicles, including hybrid electric vehicles, instead of  
37 flexible fuel vehicles.

38 (d) On or before January 31, 2003, and annually thereafter, the  
39 department, the Department of General Services, and the State Air  
40 Resources Board, in consultation with any other state agency that

1 the department, the Department of General Services, and the state  
2 board deem necessary, shall develop and adopt air pollution  
3 emission specifications governing the purchase by the state of  
4 passenger cars and light-duty trucks that meet or exceed  
5 California's Ultra-Low Emission Vehicle (ULEV) standards for  
6 exhaust emissions (13 Cal. Code Regs. 1960.1).

7 (e) If the study described in subdivision (b) determines that  
8 lower cost measures exist that deliver petroleum reductions  
9 equivalent to applicable federal requirements governing the state  
10 purchase of passenger cars and light-duty trucks, the state shall  
11 pursue a waiver from those federal requirements.

12 SEC. 309. Section 25722.5 of the Public Resources Code is  
13 amended to read:

14 25722.5. (a) In order to achieve the policy objectives set forth  
15 in Sections 25000.5 and 25722, the Department of General  
16 Services, in consultation with the department and the State Air  
17 Resources Board, shall develop and adopt specifications and  
18 standards for all passenger cars and light-duty trucks that are  
19 purchased or leased on behalf of, or by, state offices, agencies,  
20 and departments. An authorized emergency vehicle, as defined in  
21 Section 165 of the Vehicle Code, that is equipped with emergency  
22 lamps or lights described in Section 25252 of the Vehicle Code is  
23 exempt from the requirements of this section. The specifications  
24 and standards shall include the following:

25 (1) Minimum air pollution emission specifications that meet or  
26 exceed California's Ultra-Low Emission Vehicle II (ULEV II)  
27 standards for exhaust emissions (13 Cal. Code Regs. 1961). These  
28 specifications shall apply on January 1, 2006, for passenger cars  
29 and on January 1, 2010, for light-duty trucks.

30 (2) Notwithstanding any other provision of law, the utilization  
31 of procurement policies that enable the Department of General  
32 Services to do all of the following:

33 (A) Evaluate and score emissions, fuel costs, and fuel economy  
34 in addition to capital cost to enable the Department of General  
35 Services to choose the vehicle with the lowest life cycle cost when  
36 awarding a state vehicle procurement contract.

37 (B) Maximize the purchase or lease of hybrid or "Best in Class"  
38 vehicles that are substantially more fuel efficient than the class  
39 average.

1 (C) Maximize the purchase or lease of available vehicles that  
2 meet or exceed California’s Super Ultra-Low Emission Vehicle  
3 (SULEV) passenger car standards for exhaust emissions.

4 (D) Maximize the purchase or lease of alternative fuel vehicles.

5 (3) In order to discourage the unnecessary purchase or leasing  
6 of a sport utility vehicle and a four-wheel drive truck, a requirement  
7 that each state office, agency, or department seeking to purchase  
8 or lease that vehicle, demonstrate to the satisfaction of the Director  
9 of General Services or to the entity that purchases or leases vehicles  
10 for that office, agency, or department, that the vehicle is required  
11 to perform an essential function of the office, agency, or  
12 department. If it is so demonstrated, priority consideration shall  
13 be given to the purchase or lease of an alternative fuel or hybrid  
14 sports utility vehicle or four-wheel drive vehicle.

15 (b) The specifications and standards developed and adopted  
16 pursuant to subdivision (a) do not apply upon the development  
17 and implementation of the method, criteria, and procedure  
18 described in Section 25722.6.

19 (c) Each state office, agency, and department shall review its  
20 vehicle fleet and, upon finding that it is fiscally prudent, cost  
21 effective, or otherwise in the public interest to do so, shall dispose  
22 of nonessential sport utility vehicles and four-wheel drive trucks  
23 in its fleet and replace these vehicles with more fuel-efficient  
24 passenger cars and trucks.

25 (d) To the maximum extent practicable, each state office,  
26 agency, and department that has bifuel natural gas, bifuel propane,  
27 and flex fuel vehicles in its vehicle fleet shall use the respective  
28 alternative fuel in those vehicles.

29 (e) The Director of General Services shall compile annually and  
30 maintain information on the nature of vehicles that are owned or  
31 leased by the state, including, but not limited to, all of the  
32 following:

33 (1) The number of passenger-type motor vehicles purchased or  
34 leased during the year, and the number owned or leased as of  
35 December 31 of each year.

36 (2) The number of sport utility vehicles and four-wheel drive  
37 trucks purchased or leased by the state during the year, and the  
38 number owned or leased as of December 31 of each year.

39 (3) The number of alternatively fueled vehicles and hybrid  
40 vehicles purchased or leased by the state during the year, and the

1 total number owned or leased as of December 31 of each year and  
2 their location.

3 (4) The locations of the alternative fuel pumps available for  
4 those vehicles.

5 (5) The justification provided for all sport utility vehicles and  
6 four-wheel drive trucks purchased or leased by the state and the  
7 specific office, department, or agency responsible for the purchase  
8 or lease.

9 (6) The number of sport utility vehicles and four-wheel drive  
10 trucks purchased or leased by the state during the year, and the  
11 number owned or leased as of December 31 of each year that are  
12 alternative fuel or hybrid vehicles.

13 (7) The number of light-duty trucks disposed of under  
14 subdivision (c).

15 (8) The total dollars spent by the state on passenger-type vehicle  
16 purchases and leases, categorized by sport utility vehicle and  
17 nonsport utility vehicle, and within each of those categories, by  
18 alternative fuel, hybrid, and other.

19 (9) The total annual consumption of gasoline and diesel fuel  
20 used by the state fleet.

21 (10) The total annual consumption of alternative fuels.

22 (11) On December 31, 2009, and annually thereafter, the  
23 Director of General Services shall also compile the total annual  
24 vehicle miles traveled by vehicles in the state fleet.

25 (f) Each state office, agency, and department shall cooperate  
26 with the Department of General Services' data requests in order  
27 that the department may compile and maintain the information  
28 required in subdivision (e).

29 (g) As soon as practicable, but no later than 12 months after  
30 receiving the data, the information compiled and maintained under  
31 subdivision (e) and a list of those state offices, agencies, and  
32 departments that are not in compliance with subdivision (f) shall  
33 be made available to the public on the Department of General  
34 Services' Internet Web site.

35 (h) Beginning July 1, 2009, and every three years thereafter,  
36 the Director of General Services shall report to the Legislature and  
37 the Governor the information compiled and maintained pursuant  
38 to subdivision (e).

39 (i) Pursuant to Article IX of the California Constitution, this  
40 section shall not apply to the University of California except to

1 the extent that the Regents of the University of California, by  
2 appropriate resolution, make this section applicable.

3 SEC. 310. Section 25722.6 of the Public Resources Code is  
4 amended to read:

5 25722.6. (a) On or before December 31, 2008, the Department  
6 of General Services, in conjunction with the State Air Resources  
7 Board and the department, shall amend the existing “Enhanced  
8 Efficiency Costing Methodology for Passenger Cars and  
9 Light-Duty Vehicles” to rank the environmental and energy  
10 benefits, and costs of motor vehicles for potential procurement by  
11 state and local governments. The vehicle rankings shall include  
12 both of the following criteria:

13 (1) The reduction in greenhouse gas emissions, air pollutant  
14 emissions, and petroleum use on a full fuel-cycle basis, to the  
15 extent possible, based on existing data available to the State Air  
16 Resources Board, the department, or other reliable sources,  
17 including the California Strategy to Reduce Petroleum Dependence  
18 developed pursuant to subdivision (f) of Section 25720 and the  
19 state plan to increase the use of alternative transportation fuels  
20 developed pursuant to Section 43866 of the Health and Safety  
21 Code.

22 (2) The life-cycle costs of the vehicle and fuel, including  
23 maintenance.

24 (b) On or before December 31, 2008, the Department of General  
25 Services shall revise its procedures for the procurement of state  
26 and local government vehicles based upon the necessary  
27 performance specifications of the vehicles to perform the required  
28 work or tasks of the vehicles in the fleet. The Department of  
29 General Services shall establish vehicle “classes” depending upon  
30 the required work or tasks and the necessary performance  
31 specifications.

32 (c) On or before July 1, 2009, for the purpose of state fleet  
33 procurement, both of the following shall apply:

34 (1) Available vehicles in individual classes shall be ranked for  
35 purchase or lease using the method and criteria developed in  
36 subdivision (a).

37 (2) (A) Vehicles shall be procured for use in the state fleet that  
38 meet all requirements established by the federal government,  
39 including, but not limited to, the federal Energy Policy Act of  
40 1992, Public Law 102-486, if applicable, and that have been ranked

1 best in their class as determined by the evaluation in subdivision  
2 (a).

3 (B) If fueling infrastructure, for the fuel used to rank a vehicle  
4 best in class, is not available, or planned to be available within  
5 two years, the Department of General Services shall procure the  
6 vehicle ranked next best in class for which fueling infrastructure  
7 is or will be available.

8 (d) The Department of General Services shall evaluate vehicles  
9 for potential addition to the state and local fleets, as described in  
10 this section, on an annual basis, reflecting annual new vehicle  
11 availability.

12 (e) A vehicle capable of using alternative fuels shall be operated  
13 on those fuels to the maximum extent practicable unless alternative  
14 fuels are not readily available or other factors exist that may prevent  
15 the use of those fuels in the area in which the vehicle is used.

16 (f) The Department of General Services shall do both of the  
17 following:

18 (1) During the normal course of coordination and contracting  
19 with nearby fueling stations, provide information related to the  
20 alternative fuel vehicles in the state fleet and request the stations  
21 to provide a fuel supply to meet that demand.

22 (2) When replacing, retrofitting, or installing a fueling tank or  
23 infrastructure at a facility that fuels state vehicles, the Department  
24 of General Services shall consider requesting competitive bids for  
25 alternative fuel infrastructure that would meet the needs of vehicles  
26 used, or planned to be used, in that facility.

27 (g) Authorized emergency vehicles as defined in Section 165  
28 of the Vehicle Code, that are equipped with emergency lamps or  
29 lights described in Section 25252 of the Vehicle Code, are exempt  
30 from the requirements of this section.

31 (h) Each state office, agency, or department seeking to purchase  
32 or lease a sport utility vehicle or four-wheel drive vehicle shall  
33 demonstrate to the satisfaction of the Director of General Services  
34 or the entity that purchases or leases vehicles that the vehicle is  
35 required to perform an essential function of the office, agency, or  
36 department. If it is so demonstrated, priority consideration shall  
37 be given to the purchase or lease of an alternative fuel or hybrid  
38 sports utility vehicle or four-wheel drive vehicle.

39 (i) Pursuant to Article IX of the California Constitution, this  
40 section shall not apply to the University of California except to

1 the extent that the Regents of the University of California, by  
2 appropriate resolution, make this section applicable.

3 SEC. 311. Section 25722.7 of the Public Resources Code is  
4 amended to read:

5 25722.7. (a) In order to further achieve the policy objectives  
6 set forth in Sections 25000.5, 25722, and 25722.5, on or before  
7 June 1, 2007, the Department of General Services in consultation  
8 with the Department of Energy shall establish a minimum fuel  
9 economy standard that is above the standard, as it exists on January  
10 1, 2007, established pursuant to Section 3620.1 of the State  
11 Administrative Manual, for the purchase of passenger vehicles  
12 and light-duty trucks for the state fleet that are powered solely by  
13 internal combustion engines utilizing fossil fuels.

14 (b) On or after January 1, 2008, all new state fleet purchases of  
15 passenger vehicles and light-duty trucks powered solely by internal  
16 combustion engines utilizing fossil fuels, by the Department of  
17 General Services and any other state entities shall meet the fuel  
18 economy standard established under subdivision (a).

19 (c) Authorized emergency vehicles, as defined in Section 165  
20 of the Vehicle Code, and vehicles identified in paragraph (3) of  
21 subdivision (a) of Section 25722.5 are exempt from this section.

22 (d) Vehicles purchased, that are modified for the following  
23 purposes, are exempt from this section.

24 (1) To provide services by a state entity to an individual with a  
25 disability or a developmental disability, as defined under the  
26 statutes or regulations governing that state entity.

27 (2) As a reasonable accommodation for the known physical or  
28 mental disability, as defined in Section 12926 of the Government  
29 Code, of an employee.

30 (e) For purposes of this section, "state entities" includes all state  
31 departments, boards, commissions, programs, and other  
32 organizational units of the executive, legislative, and judicial  
33 branches of state government, the California Community Colleges,  
34 the California State University, and the University of California.

35 (f) This section shall not apply to the University of California  
36 except to the extent that the Regents of the University of California,  
37 by appropriate resolution, make that provision applicable.

38 SEC. 312. Section 25723 of the Public Resources Code is  
39 amended to read:

1 25723. On or before January 31, 2003, the department, in  
2 consultation with any other state agency that the department deems  
3 necessary, shall develop and adopt recommendations for  
4 consideration by the Governor and the Legislature of a California  
5 State Fuel-Efficient Tire Program. The department shall make  
6 recommendations on all of the following items:

7 (a) Establishing a test procedure for measuring tire fuel  
8 efficiency.

9 (b) Development of a database of fuel efficiency of existing  
10 tires in order to establish an accurate baseline of tire efficiency.

11 (c) A rating system for tires that provides consumers with  
12 information on the fuel efficiency of individual tire models.

13 (d) A consumer-friendly system to disseminate tire  
14 fuel-efficiency information as broadly as possible. The department  
15 shall consider labeling, Internet Web site listing, printed fuel  
16 economy guide booklets, and mandatory requirements for tire  
17 retailers to provide fuel-efficiency information.

18 (e) A study to determine the safety implications, if any, of  
19 different policies to promote fuel efficient replacement tires in the  
20 consumer market.

21 (f) A mandatory fuel-efficiency standard for all after market  
22 tires sold in California.

23 (g) Consumer incentive programs that would offer a rebate to  
24 purchasers of replacement tires that are more fuel efficient than  
25 the average replacement tire.

26 SEC. 313. Section 25740.5 of the Public Resources Code is  
27 amended to read:

28 25740.5. (a) The department, by action of the board, shall  
29 optimize public investment and ensure that the most cost-effective  
30 and efficient investments in renewable energy resources are  
31 vigorously pursued.

32 (b) The department's long-term goal shall be a fully competitive  
33 and self-sustaining supply of electricity generated from renewable  
34 sources.

35 (c) The program objective shall be to increase, in the near term,  
36 the quantity of California's electricity generated by in-state  
37 renewable electricity generation facilities, while protecting system  
38 reliability, fostering resource diversity, and obtaining the greatest  
39 environmental benefits for California residents.

1 (d) An additional objective of the program shall be to identify  
2 and support emerging renewable technologies in distributed  
3 generation applications that have the greatest near-term commercial  
4 promise and that merit targeted assistance.

5 (e) The Legislature recommends allocations among all of the  
6 following:

7 (1) Rebates, buydowns, or equivalent incentives for emerging  
8 renewable technologies.

9 (2) Customer education.

10 (3) Production incentives for reducing fuel costs, that are  
11 confirmed to the satisfaction of the department, at solid fuel  
12 biomass energy facilities in order to provide demonstrable  
13 environmental and public benefits, including improved air quality.

14 (4) Solar thermal generating resources that enhance the  
15 environmental value or reliability of the electrical system and that  
16 require financial assistance to remain economically viable, as  
17 determined by the department, by action of the board. The  
18 department, by action of the board, may require financial disclosure  
19 from applicants for purposes of this paragraph.

20 (5) Specified fuel cell technologies, if the department makes all  
21 of the following findings:

22 (A) The specified technologies have similar or better air  
23 pollutant characteristics than renewable technologies in the report  
24 made pursuant to Section 25748.

25 (B) The specified technologies require financial assistance to  
26 become commercially viable by reference to wholesale generation  
27 prices.

28 (C) The specified technologies could contribute significantly  
29 to the infrastructure development or other innovation required to  
30 meet the long-term objective of a self-sustaining, competitive  
31 supply of electricity generated from renewable sources.

32 (6) Existing wind-generating resources, if the department, by  
33 action of the board, finds that the existing wind-generating  
34 resources are a cost-effective source of reliable energy and  
35 environmental benefits compared with other in-state renewable  
36 electricity generation facilities, and that the existing  
37 wind-generating resources require financial assistance to remain  
38 economically viable. The department may require financial  
39 disclosure from applicants for the purposes of this paragraph.

1 (f) Notwithstanding any other provision of law, moneys  
2 collected for renewable energy pursuant to Article 15 (commencing  
3 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the  
4 Public Utilities Code shall be transferred to the Renewable  
5 Resource Trust Fund. Moneys collected between January 1, 2007,  
6 and January 1, 2012, shall be used for the purposes specified in  
7 this chapter.

8 SEC. 314. Section 25741 of the Public Resources Code is  
9 amended to read:

10 25741. As used in this chapter, the following terms have the  
11 following meanings:

12 (a) “Delivered” and “delivery” mean the electricity output of  
13 an in-state renewable electricity generation facility that is used to  
14 serve end-use retail customers located within the state. Subject to  
15 verification by the accounting system established by the department  
16 pursuant to subdivision (b) of Section 399.13 of the Public Utilities  
17 Code, electricity shall be deemed delivered if it is either generated  
18 at a location within the state, or is scheduled for consumption by  
19 California end-use retail customers. Subject to criteria adopted by  
20 the department, electricity generated by an eligible renewable  
21 energy resource may be considered “delivered” regardless of  
22 whether the electricity is generated at a different time from  
23 consumption by a California end-use customer.

24 (b) “In-state renewable electricity generation facility” means a  
25 facility that meets all of the following criteria:

26 (1) The facility uses biomass, solar thermal, photovoltaic, wind,  
27 geothermal, fuel cells using renewable fuels, small hydroelectric  
28 generation of 30 megawatts or less, digester gas, municipal solid  
29 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal  
30 current, and any additions or enhancements to the facility using  
31 that technology.

32 (2) The facility satisfies one of the following requirements:

33 (A) The facility is located in the state or near the border of the  
34 state with the first point of connection to the transmission network  
35 within this state and electricity produced by the facility is delivered  
36 to an in-state location.

37 (B) The facility has its first point of interconnection to the  
38 transmission network outside the state and satisfies all of the  
39 following requirements:

1 (i) It is connected to the transmission network within the  
2 Western Electricity Coordinating Council (WECC) service  
3 territory.

4 (ii) It commences initial commercial operation after January 1,  
5 2005.

6 (iii) Electricity produced by the facility is delivered to an in-state  
7 location.

8 (iv) It will not cause or contribute to any violation of a California  
9 environmental quality standard or requirement.

10 (v) If the facility is outside of the United States, it is developed  
11 and operated in a manner that is as protective of the environment  
12 as a similar facility located in the state.

13 (vi) It participates in the accounting system to verify compliance  
14 with the renewables portfolio standard by retail sellers, once  
15 established by the Department of Energy pursuant to subdivision  
16 (b) of Section 399.13 of the Public Utilities Code.

17 (C) The facility meets the requirements of clauses (i), (iii), (iv),  
18 (v), and (vi) in subparagraph (B), but does not meet the  
19 requirements of clause (ii) because it commences initial operation  
20 prior to January 1, 2005, if the facility satisfies either of the  
21 following requirements:

22 (i) The electricity is from incremental generation resulting from  
23 expansion or repowering of the facility.

24 (ii) The facility has been part of the existing baseline of eligible  
25 renewable energy resources of a retail seller established pursuant  
26 to paragraph (2) of subdivision (b) of Section 399.15 of the Public  
27 Utilities Code or has been part of the existing baseline of eligible  
28 renewable energy resources of a local publicly owned electric  
29 utility established pursuant to Section 387 of the Public Utilities  
30 Code.

31 (3) For the purposes of this subdivision, “solid waste  
32 conversion” means a technology that uses a noncombustion thermal  
33 process to convert solid waste to a clean-burning fuel for the  
34 purpose of generating electricity, and that meets all of the following  
35 criteria:

36 (A) The technology does not use air or oxygen in the conversion  
37 process, except ambient air to maintain temperature control.

38 (B) The technology produces no discharges of air contaminants  
39 or emissions, including greenhouse gases as defined in Section  
40 38505 of the Health and Safety Code.

1 (C) The technology produces no discharges to surface waters  
2 or groundwaters of the state.

3 (D) The technology produces no hazardous wastes.

4 (E) To the maximum extent feasible, the technology removes  
5 all recyclable materials and marketable green waste compostable  
6 materials from the solid waste stream prior to the conversion  
7 process and the owner or operator of the facility certifies that those  
8 materials will be recycled or composted.

9 (F) The facility at which the technology is used is in compliance  
10 with all applicable laws, regulations, and ordinances.

11 (G) The technology meets any other conditions established by  
12 the department.

13 (H) The facility certifies that any local agency sending solid  
14 waste to the facility diverted at least 30 percent of all solid waste  
15 it collects through solid waste reduction, recycling, and  
16 composting. For purposes of this paragraph, “local agency” means  
17 any city, county, or special district, or subdivision thereof, which  
18 is authorized to provide solid waste handling services.

19 (c) “Procurement entity” means any person or corporation that  
20 enters into an agreement with a retail seller to procure eligible  
21 renewable energy resources pursuant to subdivision (f) of Section  
22 399.14 of the Public Utilities Code.

23 (d) “Renewable energy public goods charge” means that portion  
24 of the nonbypassable system benefits charge authorized to be  
25 collected and to be transferred to the Renewable Resource Trust  
26 Fund pursuant to the Reliable Electric Service Investments Act  
27 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part  
28 1 of Division 1 of the Public Utilities Code).

29 (e) “Report” means the report entitled “Investing in Renewable  
30 Electricity Generation in California” (June 2001, Publication  
31 Number P500-00-022) submitted to the Governor and the  
32 Legislature by the former State Energy Resources Conservation  
33 and Development Commission.

34 (f) “Retail seller” means a “retail seller” as defined in Section  
35 399.12 of the Public Utilities Code.

36 SEC. 315. Section 25742 of the Public Resources Code is  
37 amended to read:

38 25742. (a) Twenty percent of the funds collected pursuant to  
39 the renewable energy public goods charge shall be used for  
40 programs that are designed to achieve fully competitive and

1 self-sustaining existing in-state renewable electricity generation  
2 facilities, and to secure for the state the environmental, economic,  
3 and reliability benefits that continued operation of those facilities  
4 will provide during the 2007–2011 investment cycle. Eligibility  
5 for production incentives under this section shall be limited to  
6 those technologies found eligible for funds by the department  
7 pursuant to paragraphs (3), (4), and (6) of subdivision (e) of Section  
8 25740.5.

9 (b) Any funds used to support in-state renewable electricity  
10 generation facilities pursuant to this section shall be expended in  
11 accordance with the provisions of this chapter.

12 (c) Facilities that are eligible to receive funding pursuant to this  
13 section shall be registered in accordance with criteria developed  
14 by the department and those facilities shall not receive payments  
15 for any electricity produced that has any of the following  
16 characteristics:

17 (1) Is sold at monthly average rates equal to, or greater than,  
18 the applicable target price, as determined by the department, by  
19 action of the board.

20 (2) Is used onsite.

21 (d) (1) Existing facilities generating electricity from biomass  
22 energy shall be eligible for funding and otherwise considered an  
23 in-state renewable electricity generation facility only if they report  
24 to the department the types and quantities of biomass fuels used.

25 (2) The department shall report the types and quantities of  
26 biomass fuels used by each facility to the Legislature in the reports  
27 prepared pursuant to Section 25748 and approved by the board.

28 (e) Each existing facility seeking an award pursuant to this  
29 section shall be evaluated by the department to determine the  
30 amount of the funds being sought, the cumulative amount of funds  
31 the facility has received previously from the department and other  
32 state sources, the value of any past and current federal or state tax  
33 credits, the facility's contract price for energy and capacity, the  
34 prices received by similar facilities, the market value of the facility,  
35 and the likelihood that the award will make the facility competitive  
36 and self-sustaining within the 2007–2011 investment cycle. The  
37 department shall use this evaluation to determine the value of an  
38 award to the public relative to other renewable energy investment  
39 alternatives. The department shall compile its findings and report

1 them to the Legislature in the reports prepared pursuant to Section  
2 25748 and approved by the board.

3 SEC. 316. Section 25743 of the Public Resources Code is  
4 amended to read:

5 25743. (a) The department, by action of the board, shall  
6 terminate all production incentives awarded from the New  
7 Renewable Resources Account prior to January 1, 2002, unless  
8 the project began generating electricity by January 1, 2007.

9 (b) (1) The department, by action of the board, shall, by March  
10 1, 2008, transfer to electrical corporations serving customers  
11 subject to the renewable energy public goods charge the remaining  
12 unencumbered funds in the New Renewable Resources Account.

13 (2) The Public Utilities Commission shall ensure that each  
14 electrical corporation allocates funds received from the department  
15 pursuant to paragraph (1) in a manner that maximizes the economic  
16 benefit to all customer classes that funded the New Renewable  
17 Resources Account.

18 SEC. 317. Section 25744 of the Public Resources Code is  
19 amended to read:

20 25744. (a) Seventy-nine percent of the money collected  
21 pursuant to the renewable energy public goods charge shall be  
22 used for a multiyear, consumer-based program to foster the  
23 development of emerging renewable technologies in distributed  
24 generation applications.

25 (b) Funds used for emerging technologies pursuant to this  
26 section shall be expended in accordance with this chapter, subject  
27 to all of the following requirements:

28 (1) Funding for emerging technologies shall be provided through  
29 a competitive, market-based process that is in place for a period  
30 of not less than five years, and is structured to allow eligible  
31 emerging technology manufacturers and suppliers to anticipate  
32 and plan for increased sale and installation volumes over the life  
33 of the program.

34 (2) The program shall provide monetary rebates, buydowns, or  
35 equivalent incentives, subject to paragraph (3), to purchasers,  
36 lessees, lessors, or sellers of eligible electricity generating systems.  
37 Incentives shall benefit the end-use consumer of renewable  
38 generation by directly and exclusively reducing the purchase or  
39 lease cost of the eligible system, or the cost of electricity produced  
40 by the eligible system. Incentives shall be issued on the basis of

1 the rated electrical generating capacity of the system measured in  
2 watts, or the amount of electricity production of the system,  
3 measured in kilowatthours. Incentives shall be limited to a  
4 maximum percentage of the system price, as determined by the  
5 board. The department, by action of the board, may establish  
6 different incentive levels for systems based on technology type  
7 and system size, and may provide different incentive levels for  
8 systems used in conjunction with energy-efficiency measures.

9 (3) Eligible distributed emerging technologies are fuel cell  
10 technologies that utilize renewable fuels, including fuel cell  
11 technologies with an emission profile equivalent or better than the  
12 State Air Resources Board 2007 standard, and that serve as backup  
13 generation for emergency, safety, or telecommunications systems.  
14 Eligible renewable fuels may include wind turbines of not more  
15 than 50 kilowatts rated electrical generating capacity per customer  
16 site and other distributed renewable emerging technologies that  
17 meet the emerging technology eligibility criteria established by  
18 the board and are not eligible for rebates, buydowns, or similar  
19 incentives from any other department or Public Utilities  
20 Commission program. Eligible electricity generating systems are  
21 intended primarily to offset part or all of the consumer's own  
22 electricity demand, including systems that are used as backup  
23 power for emergency, safety, or telecommunications, and shall  
24 not be owned by local publicly owned electric utilities, nor be  
25 located at a customer site that is not receiving distribution service  
26 from an electrical corporation that is subject to the renewable  
27 energy public goods charge and contributing funds to support  
28 programs under this chapter. All eligible electricity generating  
29 system components shall be new and unused, shall not have been  
30 previously placed in service in any other location or for any other  
31 application, and shall have a warranty of not less than five years  
32 to protect against defects and undue degradation of electrical  
33 generation output. Systems and their fuel resources shall be located  
34 on the same premises of the end-use consumer where the  
35 consumer's own electricity demand is located, and all eligible  
36 electricity generating systems shall be connected to the utility grid,  
37 unless the system purpose is for backup generation used in  
38 emergency, safety, or telecommunications in California. The  
39 department, by action of the board, may require eligible electricity  
40 generating systems to have meters in place to monitor and measure

1 a system's performance and generation. Only systems that will be  
2 operated in compliance with applicable law and the rules of the  
3 Public Utilities Commission shall be eligible for funding.

4 (4) The department, by action of the board, shall limit the  
5 amount of funds available for a system or project of multiple  
6 systems and reduce the level of funding for a system or project of  
7 multiple systems that has received, or may be eligible to receive,  
8 any government or utility funds, incentives, or credit.

9 (5) In awarding funding, the department, by action of the board,  
10 may provide preference to systems that provide tangible  
11 demonstrable benefits to communities with a plurality of minority  
12 or low-income populations.

13 (6) In awarding funding, the department, by action of the board,  
14 shall develop and implement eligibility criteria and a system that  
15 provides preference to systems based upon system performance,  
16 taking into account factors, including shading, insulation levels,  
17 and installation orientation.

18 (7) At least once annually, the department shall publish and  
19 make available to the public the balance of funds available for  
20 emerging renewable energy resources for rebates, buydowns, and  
21 other incentives for the purchase of these resources.

22 (c) Notwithstanding Section 27540.5, the department, by action  
23 of the board, may expend, until December 31, 2008, up to sixty  
24 million dollars (\$60,000,000) of the funding allocated to the  
25 Renewable Resources Trust Fund for the program established in  
26 this section, subject to the repayment requirements of subdivision  
27 (f) of Section 25751.

28 (d) Funds for photovoltaic or solar thermal electric technologies  
29 shall be awarded in compliance with Chapter 8.8 (commencing  
30 with Section 25780), and not with this section.

31 SEC. 318. Section 25744.5 of the Public Resources Code is  
32 amended to read:

33 25744.5. The department, by action of the board, shall allocate  
34 and use funding available for emerging renewable technologies  
35 pursuant to Section 25744 and Section 25751 to fund photovoltaic  
36 and solar thermal electric technologies in accordance with  
37 eligibility criteria and conditions established pursuant to Chapter  
38 8.8 (commencing with Section 25780).

39 SEC. 319. Section 25747 of the Public Resources Code is  
40 amended to read:

1 25747. (a) The department, by action of the board, shall adopt  
2 guidelines governing the funding programs authorized under this  
3 chapter, at a publicly noticed meeting offering all interested parties  
4 an opportunity to comment. Substantive changes to the guidelines  
5 may not be adopted without at least 10 days' written notice to the  
6 public. The public notice of meetings required by this subdivision  
7 may not be less than 30 days. Notwithstanding any other provision  
8 of law, any guidelines adopted pursuant to this chapter or Section  
9 399.13 of the Public Utilities Code, shall be exempt from the  
10 requirements of Chapter 3.5 (commencing with Section 11340) of  
11 Part 1 of Division 3 of Title 2 of the Government Code. The  
12 Legislature declares that the changes made to this subdivision by  
13 the act amending this section during the 2002 portion of the  
14 2001–02 Regular Session are declaratory of, and not a change in  
15 existing law.

16 (b) Funds to further the purposes of this chapter may be  
17 committed for multiple years.

18 (c) Awards made pursuant to this chapter are grants, subject to  
19 appeal to the board upon a showing that factors other than those  
20 described in the guidelines adopted by the board were applied in  
21 making the awards and payments. Any actions taken by an  
22 applicant to apply for, or become or remain eligible and registered  
23 to receive, payments or awards, including satisfying conditions  
24 specified by the board, shall not constitute the rendering of goods,  
25 services, or a direct benefit to the department of the board.

26 (d) An award made pursuant to this chapter, the amount of the  
27 award, and the terms and conditions of the grant are public  
28 information.

29 SEC. 320. Section 25748 of the Public Resources Code is  
30 amended to read:

31 25748. (a) The department, by action of the board, shall report  
32 to the Legislature on or before November 1, 2007, and annually  
33 thereafter, regarding the results of the mechanisms funded pursuant  
34 to this chapter. The report shall contain all of the following:

35 (1) A description of the allocation of funds among existing,  
36 new, and emerging technologies, the allocation of funds among  
37 programs, including consumer-side incentives, and the need for  
38 the reallocation of money among those technologies.

39 (2) The status of account transfers and repayments.

1 (3) A description of the cumulative commitment of claims by  
2 account, the relative demand for funds by account, and a forecast  
3 of future awards.

4 (4) A list identifying the types and quantities of biomass fuels  
5 used by facilities receiving funds pursuant to Section 25742 and  
6 their impacts on improving air quality.

7 (5) A discussion of the progress being made toward achieving  
8 the targets established under Section 25740 by each funding  
9 category authorized pursuant to this chapter.

10 (6) A description of the allocation of funds from interest on the  
11 accounts described in this chapter, and money in the accounts  
12 described in subdivision (b) of Section 25751.

13 (7) An itemized list, including project descriptions, award  
14 amounts, and outcomes for projects awarded funding in the prior  
15 year.

16 (8) Other matters the department determines may be of  
17 importance to the Legislature.

18 (b) Money may be reallocated without further legislative action  
19 among existing, new, and emerging technologies and  
20 consumer-side programs in a manner consistent with the report  
21 and with the latest report provided to the Legislature pursuant to  
22 this section, except that reallocations shall not increase the  
23 allocation established in Section 25742.

24 SEC. 321. Section 25751 of the Public Resources Code is  
25 amended to read:

26 25751. (a) The Renewable Resource Trust Fund is hereby  
27 created in the State Treasury.

28 (b) The following accounts are hereby established within the  
29 Renewable Resource Trust Fund:

- 30 (1) Existing Renewable Resources Account.
- 31 (2) Emerging Renewable Resources Account.
- 32 (3) Renewable Resources Consumer Education Account.

33 (c) The money in the fund may be expended, only upon  
34 appropriation by the Legislature in the annual Budget Act, for the  
35 following purposes:

- 36 (1) The administration of this article by the state.
- 37 (2) The state’s expenditures associated with the accounting  
38 system established by the board pursuant to subdivision (b) of  
39 Section 399.13 of the Public Utilities Code.

1 (d) That portion of revenues collected by electrical corporations  
2 for the benefit of in-state operation and development of existing  
3 and new and emerging renewable resource technologies, pursuant  
4 to Section 399.8 of the Public Utilities Code, shall be transmitted  
5 to the department at least quarterly for deposit in the Renewable  
6 Resource Trust Fund pursuant to Section 25740.5. After setting  
7 aside in the fund money that may be needed for expenditures  
8 authorized by the annual Budget Act in accordance with  
9 subdivision (c), the Treasurer shall immediately deposit money  
10 received pursuant to this section into the accounts created pursuant  
11 to subdivision (b) in proportions designated by the department for  
12 the current calendar year. Notwithstanding Section 13340 of the  
13 Government Code, the money in the fund and the accounts within  
14 the fund are hereby continuously appropriated to the department  
15 without regard to fiscal year for the purposes enumerated in this  
16 chapter.

17 (e) Upon notification by the department, the Controller shall  
18 pay all awards of the money in the accounts created pursuant to  
19 subdivision (b) for purposes enumerated in this chapter. The  
20 eligibility of each award shall be determined solely by the  
21 department, by action of the board, based on the procedures it  
22 adopts under this chapter. Based on the eligibility of each award,  
23 the department shall also establish the need for a multiyear  
24 commitment to any particular award and so advise the Department  
25 of Finance. Eligible awards submitted by the department to the  
26 Controller shall be accompanied by information specifying the  
27 account from which payment should be made and the amount of  
28 each payment; a summary description of how payment of the award  
29 furthers the purposes enumerated in this chapter; and an accounting  
30 of future costs associated with any award or group of awards known  
31 to the department to represent a portion of a multiyear funding  
32 commitment.

33 (f) The department may transfer funds between accounts for  
34 cashflow purposes, provided that the balance due each account is  
35 restored and the transfer does not adversely affect any of the  
36 accounts.

37 (g) The Department of Finance shall conduct an independent  
38 audit of the Renewable Resource Trust Fund and its related  
39 accounts annually, and provide an audit report to the Legislature  
40 not later than March 1 of each year for which this article is

1 operative. The Department of Finance’s report shall include  
2 information regarding revenues, payment of awards, reserves held  
3 for future commitments, unencumbered cash balances, and other  
4 matters that the Director of Finance determines may be of  
5 importance to the Legislature.

6 SEC. 322. Section 25770 of the Public Resources Code is  
7 amended to read:

8 25770. For the purposes of this chapter, the following terms  
9 have the following meanings:

10 (a) “Consumer information requirement” means point-of-sale  
11 information or signs that are conspicuously displayed, readily  
12 accessible, and written in a manner that can be easily understood  
13 by the consumer. “Consumer information requirement” does not  
14 include mandatory labeling, imprinting, or other marking, on an  
15 individual tire by the tire manufacturer or the tire retailer.

16 (b) “Cost effective” means the cost savings to the consumer  
17 resulting from a replacement tire subject to an energy efficiency  
18 standard that equals or exceeds the additional cost to the consumer  
19 resulting from the standard, taking into account the expected fuel  
20 cost savings over the expected life of the replacement tire.

21 (c) “Replacement tire” means a tire sold in the state that is  
22 designed to replace a tire sold with a new passenger car or  
23 light-duty truck. “Replacement tire” does not include any of the  
24 following tires:

25 (1) A tire or group of tires with the same SKU, plant, and year,  
26 for which the volume of tires produced or imported is less than  
27 15,000 annually.

28 (2) A deep tread, winter-type snow tire, a space-saver tire, or a  
29 temporary use spare tire.

30 (3) A tire with a nominal rim diameter of 12 inches or less.

31 (4) A motorcycle tire.

32 (5) A tire manufactured specifically for use in an off-road  
33 motorized recreational vehicle.

34 SEC. 323. Section 25771 of the Public Resources Code is  
35 amended to read:

36 25771. On or before July 1, 2006, the department shall develop  
37 and adopt all of the following:

38 (a) A database of the energy efficiency of a representative  
39 sample of replacement tires sold in the state, based on test  
40 procedures adopted by the department.

1 (b) Based on the data collected pursuant to subdivision (a), a  
2 rating system for the energy efficiency of replacement tires sold  
3 in the state, that will enable consumers to make more informed  
4 decisions when purchasing tires for their vehicles.

5 (c) Based on the test procedures adopted pursuant to subdivision  
6 (a) and the rating system established pursuant to subdivision (b),  
7 requirements for tire manufacturers to report to the department the  
8 energy efficiency of replacement tires sold in the state.

9 SEC. 324. Section 25772 of the Public Resources Code is  
10 amended to read:

11 25772. On or before July 1, 2007, the department by action of  
12 the board and in consultation with the Department of Resources  
13 Recovery and Recycling, shall, after appropriate notice and  
14 workshops, adopt and, on or before July 1, 2008, implement a tire  
15 energy efficiency program of statewide applicability for  
16 replacement tires, designed to ensure that replacement tires sold  
17 in the state are at least as energy efficient, on average, as tires sold  
18 in the state as original equipment on new passenger cars and  
19 light-duty trucks.

20 SEC. 325. Section 25773 of the Public Resources Code is  
21 amended to read:

22 25773. (a) The program described in Section 25772 shall  
23 include all of the following:

24 (1) The development and adoption of minimum energy  
25 efficiency standards for replacement tires, except to the extent that  
26 the department determines that it is unable to do so in a manner  
27 that complies with subparagraphs (A) to (E), inclusive. Energy  
28 efficiency standards adopted pursuant to this paragraph shall meet  
29 all of the following conditions:

30 (A) Be technically feasible and cost effective.

31 (B) Not adversely affect tire safety.

32 (C) Not adversely affect the average tire life of replacement  
33 tires.

34 (D) Not adversely affect state efforts to manage scrap tires  
35 pursuant to Chapter 17 (commencing with Section 42860) of Part  
36 3 of Division 30.

37 (2) The development and adoption of consumer information  
38 requirements for replacement tires for which standards have been  
39 adopted pursuant to paragraph (1).

1 (b) The energy efficiency standards established pursuant to  
2 paragraph (1) of subdivision (a) shall be based on the results of  
3 laboratory testing and, to the extent it is available and deemed  
4 appropriate by the department, an onroad fleet testing program  
5 developed by tire manufacturers in consultation with the  
6 department and the Department of Resources Recovery and  
7 Recycling, conducted by tire manufacturers, and submitted to the  
8 department on or before January 1, 2006.

9 (c) If the department finds that tires used to equip an authorized  
10 emergency vehicle, as defined in Section 165 of the Vehicle Code,  
11 are unable to meet the standards established pursuant to paragraph  
12 (1) of subdivision (a), the department shall authorize an operator  
13 of an authorized emergency vehicle fleet to purchase for those  
14 vehicles tires that do not meet those standards.

15 (d) The department, by action of the board, in consultation with  
16 the Department of Resources Recovery and Recycling, shall review  
17 and revise the program, including any standards adopted pursuant  
18 to the program, as necessary, but not less than once every three  
19 years. The department may not revise the program or standards in  
20 a way that reduces the average efficiency of replacement tires.

21 SEC. 326. Section 25782 of the Public Resources Code is  
22 amended to read:

23 25782. (a) The department, by the action of the board shall,  
24 by January 1, 2008, in consultation with the Public Utilities  
25 Commission, local publicly owned electric utilities, and interested  
26 members of the public, establish eligibility criteria for solar energy  
27 systems receiving ratepayer funded incentives that include all of  
28 the following:

29 (1) Design, installation, and electrical output standards or  
30 incentives.

31 (2) The solar energy system is intended primarily to offset part  
32 or all of the consumer's own electricity demand.

33 (3) All components in the solar energy system are new and  
34 unused, and have not previously been placed in service in any  
35 other location or for any other application.

36 (4) The solar energy system has a warranty of not less than 10  
37 years to protect against defects and undue degradation of electrical  
38 generation output.

1 (5) The solar energy system is located on the same premises of  
2 the end-use consumer where the consumer's own electricity  
3 demand is located.

4 (6) The solar energy system is connected to the electrical  
5 corporation's electrical distribution system within the state.

6 (7) The solar energy system has meters or other devices in place  
7 to monitor and measure the system's performance and the quantity  
8 of electricity generated by the system.

9 (8) The solar energy system is installed in conformance with  
10 the manufacturer's specifications and in compliance with all  
11 applicable electrical and building code standards.

12 (b) The department, by the action of the board shall establish  
13 conditions on ratepayer funded incentives that require all of the  
14 following:

15 (1) Appropriate siting and high quality installation of the solar  
16 energy system by developing installation guidelines that maximize  
17 the performance of the system and prevent qualified systems from  
18 being inefficiently or inappropriately installed. The conditions  
19 established by the department, by the action of the board shall not  
20 impact housing designs or densities presently authorized by a city,  
21 county, or city and county. The goal of this paragraph is to achieve  
22 efficient installation of solar energy systems to promote the greatest  
23 energy production per ratepayer dollar.

24 (2) Optimal solar energy system performance during periods of  
25 peak electricity demand.

26 (3) Appropriate energy efficiency improvements in the new or  
27 existing home or commercial structure where the solar energy  
28 system is installed.

29 (c) The department, by the action of the board shall set rating  
30 standards for equipment, components, and systems to ensure  
31 reasonable performance and shall develop standards that provide  
32 for compliance with the minimum ratings.

33 (d) Upon establishment of eligibility criteria pursuant to  
34 subdivision (a), a ratepayer funded incentives shall not be made  
35 for a solar energy system that fails to meet the eligibility criteria.

36 SEC. 327. Section 25783 of the Public Resources Code is  
37 amended to read:

38 25783. The department, by the action of the board shall do all  
39 the following:

1 (a) Publish educational materials designed to demonstrate how  
 2 builders may incorporate solar energy systems during construction  
 3 as well as energy efficiency measures that best complement solar  
 4 energy systems.

5 (b) Develop and publish the estimated annual electrical  
 6 generation and savings for solar energy systems. The estimates  
 7 shall vary by climate zone, type of system, size, life cycle costs,  
 8 electricity prices, and other factors the department determines to  
 9 be relevant to a consumer when making a purchasing decision.

10 (c) Provide assistance to builders and contractors. The assistance  
 11 may include technical workshops, training, educational materials,  
 12 and related research.

13 (d) The department shall annually conduct random audits of  
 14 solar energy systems to evaluate their operational performance.

15 SEC. 328. Section 25784 of the Public Resources Code is  
 16 amended to read:

17 25784. The department, by action of the board, shall adopt  
 18 guidelines for solar energy systems receiving ratepayer funded  
 19 incentives at a publicly noticed meeting offering all interested  
 20 parties an opportunity to comment. Not less than 30 days' public  
 21 notice shall be given of the meeting required by this section, before  
 22 the board initially adopts guidelines. Substantive changes to the  
 23 guidelines shall not be adopted without at least 10 days' written  
 24 notice to the public. Notwithstanding any other provision of law,  
 25 any guidelines adopted pursuant to this chapter shall be exempt  
 26 from the requirements of Chapter 3.5 (commencing with Section  
 27 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

28 SEC. 329. Section 25802 of the Public Resources Code is  
 29 amended to read:

30 25802. (a) A person who submits to the department a notice  
 31 of intent for any proposed generating facility shall accompany the  
 32 notice with a fee of one cent (\$0.01) per kilowatt of net electric  
 33 capacity of the proposed generation facility. The fee shall only be  
 34 paid on one of the alternate proposed facility sites that has the  
 35 highest electrical designed capacity. In no event shall the fee be  
 36 less than one thousand dollars (\$1,000) nor more than twenty-five  
 37 thousand dollars (\$25,000).

38 (b) For any other facility, the notice shall be accompanied by a  
 39 fee of five thousand dollars (\$5,000). The fee shall only be paid  
 40 on one of the alternate proposed facility sites.

1 SEC. 330. Section 25803 of the Public Resources Code is  
2 amended to read:

3 25803. Funds received by the department pursuant to Section  
4 25802, shall be remitted to the State Treasurer for deposit in the  
5 account. All funds in the account shall be expended for purposes  
6 of carrying out the provisions of this division, when appropriated  
7 by the Legislature in the Budget Act.

8 SEC. 331. Section 25806 of the Public Resources Code is  
9 amended to read:

10 25806. (a) A person who submits to the department an  
11 application for certification by the board for a proposed generating  
12 facility shall submit with the application a fee of one hundred  
13 thousand dollars (\$100,000) plus two hundred fifty dollars (\$250)  
14 per megawatt of gross generating capacity of the proposed facility.  
15 The total fee accompanying an application may not exceed three  
16 hundred fifty thousand dollars (\$350,000).

17 (b) A person who receives certification of a proposed generating  
18 facility shall pay an annual fee of fifteen thousand dollars  
19 (\$15,000). The first payment of the annual fee is due on the date  
20 this section takes effect. For a facility certified on or after the  
21 effective date of this section, the first payment of the annual fee  
22 is due on the date the board adopts the final decision. All  
23 subsequent payments are due by July 1 of each year in which the  
24 facility retains its certification. The fiscal year for the annual fee  
25 is July 1 to June 30, inclusive.

26 (c) The fees in subdivisions (a) and (b) shall be adjusted annually  
27 to reflect the percentage change in the Implicit Price Deflator for  
28 State and Local Government Purchases of Goods and Services, as  
29 published by the United States Department of Commerce.

30 (d) A fee is not required to accompany an application for  
31 certification, and an annual fee is not required thereafter, for a  
32 generating facility that uses a renewable resource as its primary  
33 fuel or power source. For purposes of this subdivision, a renewable  
34 resource includes, but is not limited to, biomass, solar thermal,  
35 geothermal, digester gas, municipal solid waste conversion, landfill  
36 gas, ocean thermal, and solid waste converted to a clean burning  
37 fuel by using a noncombustion thermal process.

38 (e) The Energy Facility License and Compliance Fund is hereby  
39 created in the State Treasury. All fees received by the department  
40 pursuant to this section shall be remitted to the Treasurer for

1 deposit in the fund. The money in the fund shall be expended, upon  
2 appropriation by the Legislature, for processing applications for  
3 certification and for compliance monitoring.

4 SEC. 332. Section 25900 of the Public Resources Code is  
5 amended to read:

6 25900. Except as provided in Section 25531, whenever the  
7 department, by the action of the board, finds that any provision of  
8 this division is violated or a violation is threatening to take place  
9 that constitutes an emergency requiring immediate action to protect  
10 the public health, welfare, or safety, the Attorney General, upon  
11 request of the department or the board, shall petition a court to  
12 enjoin the violation. The court shall have jurisdiction to grant  
13 prohibitory or mandatory injunctive relief as may be warranted by  
14 way of temporary restraining order, preliminary injunction, and  
15 permanent injunction.

16 SEC. 333. Section 25901 of the Public Resources Code is  
17 amended to read:

18 25901. (a) Within 30 days after the department, including the  
19 board, issues its determination on any matter specified in this  
20 division, except as provided in Section 25531, any aggrieved  
21 person may file with the superior court a petition for a writ of  
22 mandate for review of the determination. Failure to file this petition  
23 does not preclude a person from challenging the reasonableness  
24 and validity of a decision in any judicial proceedings brought to  
25 enforce the decision or to obtain other civil remedies.

26 (b) The decision of the department or the board shall be  
27 sustained by the court unless the court finds (1) that the department  
28 or the board proceeded without, or in excess of its jurisdiction, (2)  
29 that, based exclusively upon a review of the record before the  
30 department or the board, the decision is not supported by  
31 substantial evidence in light of the whole record, or (3) that the  
32 department or the board failed to proceed in the manner required  
33 by law.

34 (c) Except as otherwise provided in this section, subdivisions  
35 (f) and (g) of Section 1094.5 of the Code of Civil Procedure govern  
36 proceedings pursuant to this section.

37 (d) The amendment of this section made at the 1989–90 Regular  
38 Session of the Legislature does not constitute a change in, but is  
39 declaratory of, existing law.

1 SEC. 334. Section 25902 of the Public Resources Code is  
2 amended to read:

3 25902. Any evaluations in the reports required by Section  
4 25302 and any findings and determinations on the notice of intent  
5 pursuant to Chapter 6 (commencing with Section 25500) shall not  
6 be construed as a final evaluation, finding, or determination by the  
7 department or the board and a court action may not be brought to  
8 review the evaluation, finding, or determination.

9 SEC. 335. Section 25910 of the Public Resources Code is  
10 amended to read:

11 25910. The department shall, by regulation adopted by the  
12 board, establish minimum standards for the amount of additional  
13 insulation (expressed in terms of R-value) installed in existing  
14 buildings. One year after the adoption of those standards, no  
15 insulation shall be installed in any existing building by a contractor  
16 unless the contractor certifies to the customer in writing that the  
17 amount of insulation (expressed in terms of R-value) meets or  
18 exceeds the minimum amount established by the standards. The  
19 minimum standards may vary for different types of buildings or  
20 building occupancies and different climate zones in the state. The  
21 minimum standards shall be economically feasible in that the  
22 resultant savings in energy procurement costs shall be greater than  
23 the cost of the insulation to the customer amortized over the useful  
24 life of the insulation.

25 SEC. 336. Section 25911 of the Public Resources Code is  
26 amended to read:

27 25911. The California Energy Board may adopt regulations  
28 pertaining to urea formaldehyde foam insulation materials as are  
29 reasonably necessary to protect the public health and safety. These  
30 regulations may include, but are not limited to, prohibition of the  
31 manufacture, sale, or installation of urea formaldehyde foam  
32 insulation, requirements for safety notices to consumers,  
33 certification of installers, and specification of installation practices.  
34 Regulations adopted pursuant to this section shall be promulgated  
35 after public hearings in accordance with Chapter 3.5 (commencing  
36 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
37 Government Code. Any regulation adopted by the board to prohibit  
38 the sale and installation of urea formaldehyde foam insulation shall  
39 be based upon a record of scientific evidence that demonstrates

1 the need for the prohibition in order to protect the public health  
2 and safety.

3 SEC. 337. Section 25912 of the Public Resources Code is  
4 amended to read:

5 25912. Prior to the board adopting any regulation that causes  
6 a prohibition on the sale and installation of urea formaldehyde  
7 foam insulation, the department shall consult with, and solicit  
8 written comments from, all of the following:

9 (a) Federal and state agencies with appropriate scientific staffs,  
10 including, but not limited to, the State Department of Health  
11 Services, the National Academy of Sciences, the United States  
12 Department of Housing and Urban Development, the United States  
13 Department of Energy, and the United States Consumer Product  
14 Safety Commission.

15 (b) Universities and public and private scientific organizations.

16 SEC. 338. Section 25942 of the Public Resources Code is  
17 amended to read:

18 25942. (a) On or before July 1, 1995, the department shall  
19 establish criteria for adopting a statewide home energy rating  
20 program for residential dwellings. The program criteria shall  
21 include, but are not limited to, all of the following elements:

22 (1) Consistent, accurate, and uniform ratings based on a single  
23 statewide rating scale.

24 (2) Reasonable estimates of potential utility bill savings, and  
25 reliable recommendations on cost-effective measures to improve  
26 energy efficiency.

27 (3) Training and certification procedures for home raters and  
28 quality assurance procedures to promote accurate ratings and to  
29 protect consumers.

30 (4) In coordination with home energy rating service organization  
31 databases, procedures to establish a centralized, publicly accessible,  
32 database that includes a uniform reporting system for information  
33 on residential dwellings, excluding proprietary information, needed  
34 to facilitate the program. There shall be no public access to  
35 information in the database concerning specific dwellings without  
36 the owner's or occupant's permission.

37 (5) Labeling procedures that will meet the needs of home buyers,  
38 homeowners, renters, the real estate industry, and mortgage lenders  
39 with an interest in home energy ratings.

1 (b) The department shall adopt the program pursuant to  
2 subdivision (a) in consultation with representatives of the  
3 Department of Real Estate, the Department of Housing and  
4 Community Development, the Public Utilities Commission,  
5 investor-owned and municipal utilities, cities and counties, real  
6 estate licensees, home builders, mortgage lenders, home appraisers  
7 and inspectors, home energy rating organizations, contractors who  
8 provide home energy services, consumer groups, and  
9 environmental groups.

10 (c) On and after January 1, 1996, no home energy rating services  
11 may be performed in this state unless the services have been  
12 certified, if a certification program is available, by the department  
13 to be in compliance with the program criteria specified in  
14 subdivision (a) and, in addition, are in conformity with any other  
15 applicable element of the program.

16 (d) On or before July 1, 1996, the department shall consult with  
17 the agencies and organizations described in subdivision (b), to  
18 facilitate a public information program to inform homeowners,  
19 rental property owners, renters, sellers, and others of the existence  
20 of the statewide home energy rating program adopted by the  
21 department.

22 (e) Beginning with the 1998 biennial energy conservation report  
23 required by Section 25401.1, the department shall, as part of that  
24 biennial report prepared pursuant to Section 25302, report on the  
25 progress made to implement a statewide home energy rating  
26 program. The report shall include an evaluation of the energy  
27 savings attributable to the program, and a recommendation  
28 concerning which means and methods will be most efficient and  
29 cost effective to induce home energy ratings for residential  
30 dwellings.

31 SEC. 339. Section 25943 of the Public Resources Code is  
32 amended to read:

33 25943. (a) (1) By March 1, 2010, the department, by action  
34 of the board, shall establish a regulatory proceeding to develop  
35 and implement a comprehensive program to achieve greater energy  
36 savings in California's existing residential and nonresidential  
37 building stock. This program shall comprise a complementary  
38 portfolio of techniques, applications, and practices that will achieve  
39 greater energy efficiency in existing residential and nonresidential  
40 structures that fall significantly below the current standards in Title

1 24 of the California Code of Regulations, as determined by the  
2 department.

3 (2) The comprehensive program may include, but need not be  
4 limited to, a broad range of energy assessments, building  
5 benchmarking, energy rating, cost-effective energy efficiency  
6 improvements, public and private sector energy efficiency  
7 financing options, public outreach and education efforts, and green  
8 workforce training.

9 (b) To develop and implement the program specified in  
10 subdivision (a), the department shall do both of the following:

11 (1) Coordinate with the Public Utilities Commission and consult  
12 with representatives from the Department of Real Estate, the  
13 Department of Housing and Community Development,  
14 investor-owned and publicly owned utilities, local governments,  
15 real estate licensees, commercial and home builders, commercial  
16 property owners, small businesses, mortgage lenders, financial  
17 institutions, home appraisers, inspectors, energy rating  
18 organizations, consumer groups, environmental and environmental  
19 justice groups, and other entities the board deems appropriate.

20 (2) Hold at least three public hearings in geographically diverse  
21 locations throughout the state.

22 (c) In developing the requirements for the program specified in  
23 subdivision (a), the board shall consider all of the following:

24 (1) The amount of annual and peak energy savings, greenhouse  
25 gas emission reductions, and projected customer utility bill savings  
26 that will accrue from the program.

27 (2) The most cost-effective means and reasonable timeframes  
28 to achieve the goals of the program.

29 (3) The various climatic zones within the state.

30 (4) An appropriate method to inform and educate the public  
31 about the need for, benefits of, and environmental impacts of, the  
32 comprehensive energy efficiency program.

33 (5) The most effective way to report the energy assessment  
34 results and the corresponding energy efficiency improvements to  
35 the owner of the residential or nonresidential building, including,  
36 among other things, the following:

37 (A) Prioritizing the identified energy efficiency improvements.

38 (B) The payback period or cost-effectiveness of each  
39 improvement identified.

- 1 (C) The various incentives, loans, grants, and rebates offered  
2 to finance the improvements.
- 3 (D) Available financing options including all of the following:  
4 (i) Mortgages or sales agreement components.  
5 (ii) On-bill financing.  
6 (iii) Contractual property tax assessments.  
7 (iv) Home warranties.
- 8 (6) Existing statutory and regulatory requirements to achieve  
9 energy efficiency savings and greenhouse gas emission reductions.
- 10 (7) A broad range of implementation approaches, including both  
11 utility and nonutility administration of energy efficiency programs.
- 12 (8) Any other considerations deemed appropriate by the board.
- 13 (d) The program developed pursuant to this section shall do all  
14 of the following:  
15 (1) Minimize the overall costs of establishing and implementing  
16 the comprehensive energy efficiency program requirements.  
17 (2) Ensure, for residential buildings, that the energy efficiency  
18 assessments, ratings, or improvements do not unreasonably or  
19 unnecessarily affect the home purchasing process or the ability of  
20 individuals to rent housing. A transfer of property subject to the  
21 program implemented pursuant to this section shall not be  
22 invalidated solely because of the failure of a person to comply  
23 with a provision of the program.  
24 (3) Ensure, for nonresidential buildings, that the energy  
25 improvements do not have an undue economic impact on California  
26 businesses.  
27 (4) Determine, for residential buildings, the appropriateness of  
28 the Home Energy Rating System (HERS) program to support the  
29 goals of this section and whether there are a sufficient number of  
30 HERS-certified raters available to meet the program requirements.  
31 (5) Determine, for nonresidential structures, the availability of  
32 an appropriate cost-effective energy efficiency assessment system  
33 and whether there are a sufficient number of certified raters or  
34 auditors available to meet the program requirements.  
35 (6) Coordinate with the California Workforce Investment Board,  
36 the Employment Training Panel, the California Community  
37 Colleges, and other entities to ensure a qualified, well-trained  
38 workforce is available to implement the program requirements.

1 (7) Coordinate with, and avoid duplication of, existing  
2 proceedings of the Public Utilities Commission and programs  
3 administered by utilities.

4 (e) A home energy rating or energy assessment service does not  
5 meet the requirements of this section unless the service has been  
6 certified by the board to be in compliance with the program criteria  
7 developed pursuant to this section and is in conformity with other  
8 applicable elements of the program.

9 (f) The department, by action of the board, shall periodically  
10 update the criteria and adopt any revision that, in its judgment, is  
11 necessary to improve or refine program requirements after  
12 receiving public input.

13 (g) Before implementing an element of the program developed  
14 pursuant to subdivision (a) that requires the expansion of statutory  
15 authority of the department or the Public Utilities Commission,  
16 the department and the Public Utilities Commission shall obtain  
17 legislative approval for the expansion of their authorities.

18 (h) The department shall report on the status of the program in  
19 the integrated energy policy report pursuant to Section 25302.

20 (i) The department shall fund activities undertaken pursuant to  
21 this section from the Federal Trust Fund consistent with the federal  
22 American Recovery and Reinvestment Act of 2009 (Public Law  
23 111-5) or other sources of nonstate funds available to the  
24 department for the purposes of this section.

25 (j) For purposes of this section, “energy assessment” means a  
26 determination of an energy user’s energy consumption level,  
27 relative efficiency compared to other users, and opportunities to  
28 achieve greater efficiency or improve energy resource utilization.

29 SEC. 340. Section 25960 of the Public Resources Code is  
30 amended to read:

31 25960. A new residential-type gas appliance that is equipped  
32 with a pilot light shall not be sold in the state after an alternate  
33 means has been certified by the board. This prohibition shall  
34 become operative 24 months after an intermittent ignition device  
35 has been demonstrated and certified by the board as an alternate  
36 means. The board may determine, after demonstration, that there  
37 is no feasible alternative means to the use of pilot light or that the  
38 use of a pilot light is necessary for public health and safety.

39 SEC. 341. Section 25961 of the Public Resources Code is  
40 amended to read:

1 25961. The department, by action of the board, shall, on or  
2 before January 1, 1976, develop in cooperation with affected  
3 industry and consumer representatives, who will be designated as  
4 such representatives by the board, the specifications for certification  
5 of intermittent ignition devices that shall not significantly affect  
6 the price of gas appliances in competition with similar electrical  
7 appliances. The specification shall be developed so as to result in  
8 the conservation of primary energy resources, shall include  
9 provisions necessary for public health and safety, and shall give  
10 due consideration to the initial costs, including installation and  
11 maintenance costs imposed upon the consumer.

12 SEC. 342. Section 25962 of the Public Resources Code is  
13 amended to read:

14 25962. Within 90 days after an intermittent ignition device has  
15 been certified by the board, the department shall notify all gas  
16 appliance manufacturers doing business in the state, as to the  
17 prohibition of affected pilot lights and shall inform the  
18 manufacturers of the devices available to comply with this article.

19 SEC. 343. Section 25963 of the Public Resources Code is  
20 amended to read:

21 25963. The department shall create a seal of certification and  
22 shall distribute the seal to every manufacturer that complies with  
23 this article. The seal shall be affixed to every new appliance sold  
24 in the state.

25 SEC. 344. Section 25964 of the Public Resources Code is  
26 amended to read:

27 25964. After 24 months after an intermittent ignition device  
28 has been certified by the board, a person shall not sell or offer for  
29 sale in this state any new gas appliances, as defined in Section  
30 25950, without obtaining the proper seal of certification from the  
31 board, unless the board otherwise permits this action. Beginning  
32 24 months after an intermittent ignition device has been certified  
33 by the board, a city or county, city and county, or state agency  
34 shall not issue a permit for any building to be equipped with any  
35 new gas appliance, as defined in Section 25950, unless the building  
36 permit shows that the gas appliance complies with this chapter.  
37 However, any new gas appliance that does not comply with this  
38 chapter may be installed if the appliance was purchased pursuant  
39 to a contract executed prior to June 17, 1978, and if the building  
40 permit was approved prior to July 8, 1978.

1 SEC. 345. Section 25965 of the Public Resources Code is  
2 amended to read:

3 25965. After 24 months after an intermittent ignition device  
4 has been certified by the board, the department shall make periodic  
5 inspections of manufacturers and distributors of gas appliances  
6 and may inspect retail outlets, including gas appliances that have  
7 been or are to be installed by contractors or builders at building  
8 sites in order to determine their compliance with this article.

9 SEC. 346. Section 25967 of the Public Resources Code is  
10 amended to read:

11 25967. (a) Any person who violates this chapter shall be liable  
12 for a civil penalty not to exceed two thousand five hundred dollars  
13 (\$2,500) for each violation, which shall be assessed and recovered  
14 in a civil action brought in the name of the people of the State of  
15 California by the Attorney General or by any district attorney,  
16 county counsel, or city attorney in any court of competent  
17 jurisdiction.

18 (b) If the action is brought by the Attorney General, one-half  
19 of the penalty collected shall be paid to the treasurer of the county  
20 in which the judgment was entered, and one-half to the State  
21 Treasurer. If brought by a district attorney or county counsel, the  
22 entire amount of penalty collected shall be paid to the treasurer of  
23 the county in which the judgment was entered. If brought by a city  
24 attorney or city prosecutor, one-half of the penalty shall be paid  
25 to the treasurer of the county and one-half to the city.

26 (c) If the action is brought at the request of the department or  
27 the board, the court shall determine the reasonable expenses  
28 incurred by the department or the board in the investigation and  
29 prosecution of the action.

30 (d) Before any penalty collected is paid out pursuant to  
31 subdivision (b), the amount of such reasonable expenses incurred  
32 by the department or the board shall be paid to the State Treasurer.

33 SEC. 347. Section 25968 of the Public Resources Code is  
34 amended to read:

35 25968. Any inspector appointed or authorized by the  
36 department or the board shall have access to the premises,  
37 equipment, materials, partly finished and finished articles, and  
38 records of any person subject to this chapter.

39 SEC. 348. Section 26004 of the Public Resources Code is  
40 amended to read:

1 26004. (a) There is in the state government the California  
2 Alternative Energy and Advanced Transportation Financing  
3 Authority. The authority constitutes a public instrumentality and  
4 the exercise by the authority of powers conferred by this division  
5 is the performance of an essential public function.

6 (b) The authority shall consist of five members, as follows:

7 (1) The Director of Finance.

8 (2) The Secretary of the Department of Energy.

9 (3) The President of the Public Utilities Commission.

10 (4) The Controller.

11 (5) The Treasurer, who shall serve as the chairperson of the  
12 authority.

13 (c) The members listed in paragraphs (1) to (5), inclusive, of  
14 subdivision (b) may each designate a deputy or clerk in his or her  
15 agency to act for and represent the member at all meetings of the  
16 authority.

17 (d) The first meeting of the authority shall be convened by the  
18 Treasurer.

19 SEC. 349. Section 26011.5 of the Public Resources Code is  
20 amended to read:

21 26011.5. The authority, in consultation with the Department  
22 of Energy, shall establish criteria for the selection of projects to  
23 receive financing assistance from the authority. In the selection of  
24 projects, the authority shall, in accordance with the legislative  
25 intent, provide financial assistance under this division in a manner  
26 consistent with sound financial practice. In developing project  
27 selection criteria, the authority shall consider, but not be limited  
28 to, all of the following:

29 (a) The technological feasibility of the projects.

30 (b) The economic soundness of the projects and a realistic  
31 expectation that all financial obligations can and will be met by  
32 the participating parties.

33 (c) The contribution that the projects can make to a reduction  
34 or more efficient use of fossil fuels.

35 (d) The contribution that the project can make toward  
36 diversifying California's energy resources by fostering renewable  
37 energy systems that can substitute, or preferably eliminate, the  
38 demand for conventional energy fuels.

39 (e) Any other such factors that the authority finds significant in  
40 achieving the purposes and objectives of this division.

1 SEC. 350. Section 26011.6 of the Public Resources Code is  
2 amended to read:

3 26011.6. (a) The authority shall establish a renewable energy  
4 program to provide financial assistance to public power entities,  
5 independent generators, utilities, or businesses manufacturing  
6 components or systems, or both, to generate new and renewable  
7 energy sources, develop clean and efficient distributed generation,  
8 and demonstrate the economic feasibility of new technologies,  
9 such as solar, photovoltaic, wind, and ultralow-emission equipment.  
10 The authority shall give preference to utility-scale projects that  
11 can be rapidly deployed to provide a significant contribution as a  
12 renewable energy supply. The program established pursuant to  
13 this subdivision shall include financial assistance provided pursuant  
14 to subdivision (g) of Section 26011.

15 (b) The authority shall make every effort to expedite the  
16 operation of renewable energy systems, and shall adopt regulations  
17 for purposes of this section and Section 26011.5 as emergency  
18 regulations in accordance with Chapter 3.5 (commencing with  
19 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
20 Code. For purposes of Chapter 3.5, including Section 11349.6 of  
21 the Government Code, the adoption of the regulations shall be  
22 considered by the Office of Administrative Law to be necessary  
23 for the immediate preservation of the public peace, health and  
24 safety, and general welfare. Notwithstanding the 120-day limitation  
25 specified in subdivision (e) of Section 11346.1 of the Government  
26 Code, the regulations shall be repealed 180 days after their effective  
27 date, unless the authority complies with Sections 11346.2 to  
28 11347.3, inclusive, as provided in subdivision (e) of Section  
29 11346.1 of the Government Code.

30 (c) The authority shall consult with the Department of Energy  
31 regarding the financing of projects to avoid duplication of other  
32 renewable energy projects.

33 (d) The authority shall ensure that any financed project shall  
34 offer its power within California on a long-term contract basis.

35 (e) The authority shall ensure that a financed project is limited  
36 to resources that the authority determines support the state's goals  
37 for the reduction of emissions of greenhouse gases pursuant to the  
38 California Global Warming Solutions Act of 2006 (Division 25.5  
39 (commencing with Section 38500) of the Health and Safety Code).

1 SEC. 351. Section 30404 of the Public Resources Code is  
2 amended to read:

3 30404. (a) The commission shall periodically, in the case of  
4 the Department of Energy, the State Board of Forestry and Fire  
5 Protection, the State Water Resources Control Board and the  
6 California regional water quality control boards, the State Air  
7 Resources Board and air pollution control districts and air quality  
8 management districts, the Department of Fish and Game, the  
9 Department of Parks and Recreation, the Department of Boating  
10 and Waterways, the California Geological Survey and the Division  
11 of Oil, Gas, and Geothermal Resources in the Department of  
12 Conservation, and the State Lands Commission, and may, with  
13 respect to any other state agency, submit recommendations  
14 designed to encourage the state agency to carry out its functions  
15 in a manner consistent with this division. The recommendations  
16 may include proposed changes in administrative regulations, rules,  
17 and statutes.

18 (b) Each of those state agencies shall review and consider the  
19 commission recommendations and shall, within six months from  
20 the date of their receipt, to the extent that the recommendations  
21 have not been implemented, report to the Governor and the  
22 Legislature its action and reasons therefor. The report shall also  
23 include the state agency's comments on any legislation that may  
24 have been proposed by the commission.

25 ~~SEC. 352. Section 322 is added to the Public Utilities Code,~~  
26 ~~to read:~~

27 ~~322. (a) Whenever in this chapter a reference is made to the~~  
28 ~~“California Energy Resources Conservation and Development~~  
29 ~~Commission,” the “State Energy Resources Conservation and~~  
30 ~~Development Commission,” or the “Energy Commission,” it means~~  
31 ~~the Department of Energy as successor to that entity.~~

32 ~~(b) Whenever in this chapter a reference is made to the~~  
33 ~~Department of Water Resources acting pursuant to Division 27~~  
34 ~~(commencing with Section 80000) of the Water Code, it includes~~  
35 ~~the Department of Energy as the successor to the Department of~~  
36 ~~Water Resources for this purpose.~~

37 ~~SEC. 353.~~

38 ~~SEC. 352. Article 2 (commencing with Section 334) of Chapter~~  
39 ~~2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.~~

1     ~~SEC. 354.~~

2     *SEC. 353.* Section 345.1 is added to the Public Utilities Code,  
3 to read:

4     345.1. (a) The Independent System Operator governing board  
5 shall be composed of a five-member independent governing board  
6 of directors appointed by the Governor and subject to confirmation  
7 by the Senate. Any reference in this chapter or in any other  
8 provision of law to the Independent System Operator governing  
9 board means the independent governing board appointed under  
10 this subdivision.

11     (b) A member of the independent governing board appointed  
12 under subdivision (a) may not be affiliated with any actual or  
13 potential participant in any market administered by the Independent  
14 System Operator.

15     (c) (1) All appointments shall be for three-year terms.

16     (2) There is no limit on the number of terms that may be served  
17 by any member.

18     (d) The Office of Energy Market Oversight shall require the  
19 articles of incorporation and bylaws of the Independent System  
20 Operator to be maintained in accordance with this section, and  
21 shall make filings with the Federal Energy Regulatory Commission  
22 as the office determines to be necessary.

23     (e) For the purposes of the initial appointments to the  
24 Independent System Operator governing board, as provided in  
25 subdivision (a), the Governor shall appoint one member to a  
26 one-year term, two members to a two-year term, and two members  
27 to a three-year term.

28     ~~SEC. 355.~~

29     *SEC. 354.* Section 345.2 is added to the Public Utilities Code,  
30 to read:

31     345.2. (a) The Independent System Operator bylaws shall  
32 contain provisions that identify those matters specified in  
33 subdivision (b) of Section 25227.6 of the Public Resources Code  
34 as matters within state jurisdiction. The bylaws shall also contain  
35 provisions that state that California’s bylaws approval function  
36 with respect to the matters specified in subdivision (b) of Section  
37 25227.6 of the Public Resources Code shall not preclude the  
38 Federal Energy Regulatory Commission from taking any action  
39 necessary to address undue discrimination or other violations of  
40 the Federal Power Act (16 U.S.C. Sec. 791a et seq.) or to exercise

1 any other commission responsibility under the Federal Power Act.  
2 In taking this action, the Federal Energy Regulatory Commission  
3 shall give due respect to California's jurisdictional interests in the  
4 functions of the Independent System Operator and to attempt to  
5 accommodate state interests to the extent those interests are not  
6 inconsistent with the Federal Energy Regulatory Commission's  
7 statutory responsibilities. The bylaws shall state that any future  
8 agreement regarding the apportionment of the Independent System  
9 Operator board appointment function among participating states  
10 associated with the expansion of the Independent System Operator  
11 into a multistate entity shall be filed with the Federal Energy  
12 Regulatory Commission pursuant to Section 205 of the Federal  
13 Power Act (16 U.S.C. Sec. 824d).

14 (b) Any necessary bylaw changes to implement the provisions  
15 of Section 345.1 or subdivision (a) of this section, or Section  
16 25227.1, 25227.5, or 25227.6 of the Public Resources Code, or  
17 changes required pursuant to an agreement as contemplated by  
18 subdivision (a) of this section with a participating state for a  
19 regional organization, shall be effective upon approval of the  
20 Independent System Operator governing board and the Office of  
21 Energy Market Oversight and acceptance for filing by the Federal  
22 Energy Regulatory Commission.

23 ~~SEC. 356.~~

24 *SEC. 355.* Section 346 of the Public Utilities Code is repealed.

25 ~~SEC. 357.~~

26 *SEC. 356.* Section 348 of the Public Utilities Code is amended  
27 to read:

28 348. The Independent System Operator shall adopt inspection,  
29 maintenance, repair, and replacement standards for the transmission  
30 facilities under its control no later than September 30, 1997. The  
31 standards, which shall be performance or prescriptive standards,  
32 or both, as appropriate, for each substantial type of transmission  
33 equipment or facility, shall provide for high quality, safe, and  
34 reliable service. In adopting its standards, the Independent System  
35 Operator shall consider: cost, local geography and weather,  
36 applicable codes, national electric industry practices, sound  
37 engineering judgment, and experience. The Independent System  
38 Operator shall also adopt standards for reliability, and safety during  
39 periods of emergency and disaster. The Independent System  
40 Operator shall report to the Office of Energy Market Oversight,

1 at the times as that office may specify, on the development and  
2 implementation of the standards in relation to facilities under the  
3 operational control of the Independent System Operator. The  
4 Independent System Operator shall require each transmission  
5 facility owner or operator to report annually on its compliance  
6 with the standards. That report shall be made available to the  
7 public.

8 ~~SEC. 358.~~

9 *SEC. 357.* Section 350 of the Public Utilities Code is repealed.

10 ~~SEC. 359.~~

11 *SEC. 358.* Section 352 of the Public Utilities Code is amended  
12 to read:

13 352. The Independent System Operator shall not enter into a  
14 multistate entity or a regional organization as authorized in Section  
15 359 unless that entry is approved by the Office of Energy Market  
16 Oversight.

17 ~~SEC. 360.~~

18 *SEC. 359.* Section 360 of the Public Utilities Code is repealed.

19 ~~SEC. 361.~~

20 *SEC. 360.* Section 365 of the Public Utilities Code is repealed.

21 ~~SEC. 362.~~

22 *SEC. 361.* Section 384 of the Public Utilities Code is amended  
23 to read:

24 384. (a) Funds transferred to the Department of Energy  
25 pursuant to this article for purposes of public interest research,  
26 development, and demonstration shall be transferred to the Public  
27 Interest Research, Development, and Demonstration Fund, which  
28 is hereby created in the State Treasury. The fund is a trust fund  
29 and shall contain money from all interest, repayments,  
30 disencumbrances, royalties, and any other proceeds appropriated,  
31 transferred, or otherwise received for purposes pertaining to public  
32 interest research, development, and demonstration. Any  
33 appropriations that are made from the fund shall have an  
34 encumbrance period of not longer than two years, and a liquidation  
35 period of not longer than four years.

36 (b) Funds deposited in the Public Interest Research,  
37 Development, and Demonstration Fund may be expended for  
38 projects that serve the energy needs of both stationary and  
39 transportation purposes if the research provides an electricity  
40 ratepayer benefit.

1 (c) The Department of Energy shall report annually to the  
2 appropriate budget committees of the Legislature on any  
3 encumbrances or liquidations that are outstanding at the time the  
4 commission's budget is submitted to the Legislature for review.

5 ~~SEC. 363.~~

6 *SEC. 362.* Section 398.3 of the Public Utilities Code is amended  
7 to read:

8 398.3. (a) Beginning January 1, 1998, or as soon as practicable  
9 thereafter, each generator that provides meter data to a system  
10 operator shall report to the system operator electricity generated  
11 in kilowatthours by hour by generator, the fuel type or fuel types  
12 and fuel consumption by fuel type by month on an historical  
13 recorded quarterly basis. Facilities using only one fuel type may  
14 satisfy this requirement by reporting fuel type only. With regard  
15 to any facility using more than one fuel type, reports shall reflect  
16 the fuel consumed as a percentage of electricity generation.

17 (b) The Department of Energy shall have authorization to access  
18 the electricity generation data in kilowatthours by hour for each  
19 facility that provides meter data to the system operator, and the  
20 fuel type or fuel types.

21 (c) With regard to out-of-state generation, the Department of  
22 Energy shall have authorization to access the electricity generation  
23 data in kilowatthours by hour at the point at which out-of-state  
24 generation is metered, to the extent the information has been  
25 submitted to a system operator.

26 (d) Trade secrets as defined in subdivision (d) of Section 3426.1  
27 of the Civil Code contained in the information provided to the  
28 system operators pursuant to this section shall be treated as  
29 confidential. These data may be disclosed only by the system  
30 operators and only by authorization of the generator except that  
31 the Department of Energy shall have authorization to access these  
32 data, shall consider all these data to be trade secrets, and shall only  
33 release these data in an aggregated form such that trade secrets  
34 cannot be discerned.

35 ~~SEC. 364.~~

36 *SEC. 363.* Section 398.5 of the Public Utilities Code is amended  
37 to read:

38 398.5. (a) Retail suppliers that disclose specific purchases  
39 pursuant to Section 398.4 shall report on June 1, 2009, and annually

1 thereafter, to the Department of Energy, for each electricity offering  
2 for the previous calendar year, each of the following:

3 (1) The kilowatthours purchased, by generator and fuel type  
4 during the previous calendar year, consistent with the meter data,  
5 including losses, reported to the system operator.

6 (2) For each electricity offering the kilowatthours sold at retail.

7 (3) For each electricity offering the disclosures made to  
8 consumers pursuant to Section 398.4.

9 (b) Information submitted to the Department of Energy pursuant  
10 to this section that is a trade secret as defined in subdivision (d)  
11 of Section 3426.1 of the Civil Code shall not be released except  
12 in an aggregated form such that trade secrets cannot be discerned.

13 (c) On or before January 1, 1998, the Department of Energy  
14 shall specify guidelines and standard formats, based on the  
15 requirements of this article and subject to public hearing, for the  
16 submittal of information pursuant to this article.

17 (d) In developing the rules and procedures specified in this  
18 section, the Department of Energy shall seek to minimize the  
19 reporting burden and cost of reporting that it imposes on retail  
20 suppliers.

21 (e) The provisions of this section shall not apply to generators  
22 providing electric service onsite, under an over-the-fence  
23 transaction as described in Section 218, or to an affiliate or  
24 affiliates, as defined in subdivision (a) of Section 372.

25 (f) The Department of Energy may verify the veracity of  
26 environmental claims made by retail suppliers.

27 ~~SEC. 365.~~

28 *SEC. 364.* Section 399.2.5 of the Public Utilities Code is  
29 amended to read:

30 399.2.5. (a) Notwithstanding any other provision in Sections  
31 1001 to 1013, inclusive, an application to the California Energy  
32 Board within the Department of Energy of an electrical corporation  
33 for a certificate authorizing the construction of new transmission  
34 facilities shall be deemed to be necessary to the provision of  
35 electric service for purposes of any determination made under  
36 Section 1003 if the California Energy Board within the Department  
37 of Energy finds that the new facility is necessary to facilitate  
38 achievement of the renewable power goals established in Article  
39 16 (commencing with Section 399.11).

1 (b) With respect to a transmission facility described in  
2 subdivision (a), the commission shall take all feasible actions to  
3 ensure that the transmission rates established by the Federal Energy  
4 Regulatory Commission are fully reflected in any retail rates  
5 established by the commission. These actions shall include, but  
6 are not limited to:

7 (1) Making findings, where supported by an evidentiary record,  
8 that those transmission facilities provide benefit to the transmission  
9 network and are necessary to facilitate the achievement of the  
10 renewables portfolio standard established in Article 16  
11 (commencing with Section 399.11).

12 (2) Directing the utility to which the generator will be  
13 interconnected, where the direction is not preempted by federal  
14 law, to seek the recovery through general transmission rates of the  
15 costs associated with the transmission facilities.

16 (3) Asserting the positions described in paragraphs (1) and (2)  
17 to the Federal Energy Regulatory Commission in appropriate  
18 proceedings.

19 (4) Allowing recovery in retail rates of any increase in  
20 transmission costs incurred by an electrical corporation resulting  
21 from the construction of the transmission facilities that are not  
22 approved for recovery in transmission rates by the Federal Energy  
23 Regulatory Commission after the commission determines that the  
24 costs were prudently incurred in accordance with subdivision (a)  
25 of Section 454.

26 ~~SEC. 366.~~

27 *SEC. 365.* Section 399.8 of the Public Utilities Code is amended  
28 to read:

29 399.8. (a) In order to ensure that the citizens of this state  
30 continue to receive safe, reliable, affordable, and environmentally  
31 sustainable electric service, it is the policy of this state and the  
32 intent of the Legislature that prudent investments in energy  
33 efficiency, renewable energy, and research, development, and  
34 demonstration shall continue to be made.

35 (b) (1) Every customer of an electrical corporation shall pay a  
36 nonbypassable system benefits charge authorized pursuant to this  
37 article. The system benefits charge shall fund energy efficiency,  
38 renewable energy, and research, development, and demonstration.

1 (2) Local publicly owned electric utilities shall continue to  
 2 collect and administer system benefits charges pursuant to Section  
 3 385.

4 (c) (1) The commission shall require each electrical corporation  
 5 to identify a separate rate component to collect revenues to fund  
 6 energy efficiency, renewable energy, and research, development,  
 7 and demonstration programs authorized pursuant to this section  
 8 beginning January 1, 2002, and ending January 1, 2012. The rate  
 9 component shall be a nonbypassable element of the local  
 10 distribution service and collected on the basis of usage.

11 (2) This rate component may not exceed, for any tariff schedule,  
 12 the level of the rate component that was used to recover funds  
 13 authorized pursuant to Section 381 on January 1, 2000. If the  
 14 amounts specified in paragraph (1) of subdivision (d) are not  
 15 recovered fully in any year, the commission shall reset the rate  
 16 component to restore the unrecovered balance, provided that the  
 17 rate component may not exceed, for any tariff schedule, the level  
 18 of the rate component that was used to recover funds authorized  
 19 pursuant to Section 381 on January 1, 2000. Pending restoration,  
 20 any annual shortfalls shall be allocated pro rata among the three  
 21 funding categories in the proportions established in paragraph (1)  
 22 of subdivision (d).

23 (d) The commission shall order San Diego Gas and Electric  
 24 Company, Southern California Edison Company, and Pacific Gas  
 25 and Electric Company to collect these funds commencing on  
 26 January 1, 2002, as follows:

27 (1) Two hundred twenty-eight million dollars (\$228,000,000)  
 28 per year in total for energy efficiency and conservation activities,  
 29 sixty-five million five hundred thousand dollars (\$65,500,000) in  
 30 total per year for renewable energy, and sixty-two million five  
 31 hundred thousand dollars (\$62,500,000) in total per year for  
 32 research, development, and demonstration. The funds for energy  
 33 efficiency and conservation activities shall continue to be allocated  
 34 in proportions established for the year 2000 as set forth in  
 35 paragraph (1) of subdivision (c) of Section 381.

36 (2) The amounts shall be adjusted annually at a rate equal to  
 37 the lesser of the annual growth in electric commodity sales or  
 38 inflation, as defined by the gross domestic product deflator.

39 (e) The commission shall ensure that each electrical corporation  
 40 allocates funds transferred by the Department of Energy pursuant

1 to subdivision (b) of Section 25743 in a manner that maximizes  
2 the economic benefit to all customer classes that funded the New  
3 Renewable Resources Account.

4 (f) The commission and the Department of Energy shall retain  
5 and continue their oversight responsibilities as set forth in Sections  
6 381 and 383 of this code, and Chapter 7.1 (commencing with  
7 Section 25620) and Chapter 8.6 (commencing with Section 25740)  
8 of Division 15 of the Public Resources Code.

9 (g) An applicant for the Large Nonresidential Standard  
10 Performance Contract Program funded pursuant to paragraph (1)  
11 of subdivision (b) and an electrical corporation shall promptly  
12 attempt to resolve disputes that arise related to the program's  
13 guidelines and parameters prior to entering into a program  
14 agreement. The applicant shall provide the electrical corporation  
15 with written notice of any dispute. Within 10 business days after  
16 receipt of the notice, the parties shall meet to resolve the dispute.  
17 If the dispute is not resolved within 10 business days after the date  
18 of the meeting, the electrical corporation shall notify the applicant  
19 of his or her right to file a complaint with the commission, which  
20 complaint shall describe the grounds for the complaint, injury, and  
21 relief sought. The commission shall issue its findings in response  
22 to a filed complaint within 30 business days of the date of receipt  
23 of the complaint. Prior to issuance of its findings, the commission  
24 shall provide a copy of the complaint to the electrical corporation,  
25 which shall provide a response to the complaint to the commission  
26 within five business days of the date of receipt. During the dispute  
27 period, the amount of estimated financial incentives shall be held  
28 in reserve until the dispute is resolved.

29 ~~SEC. 367.~~

30 *SEC. 366.* Section 399.11 of the Public Utilities Code is  
31 amended to read:

32 399.11. The Legislature finds and declares all of the following:

33 (a) In order to attain a target of generating 20 percent of total  
34 retail sales of electricity in California from eligible renewable  
35 energy resources by December 31, 2010, and for the purposes of  
36 increasing the diversity, reliability, public health, and  
37 environmental benefits of the energy mix, it is the intent of the  
38 Legislature that the commission and the Department of Energy  
39 implement the California Renewables Portfolio Standard Program  
40 described in this article.

1 (b) Increasing California’s reliance on eligible renewable energy  
2 resources may promote stable electricity prices, protect public  
3 health, improve environmental quality, stimulate sustainable  
4 economic development, create new employment opportunities,  
5 and reduce reliance on imported fuels.

6 (c) The development of eligible renewable energy resources  
7 and the delivery of the electricity generated by those resources to  
8 customers in California may ameliorate air quality problems  
9 throughout the state and improve public health by reducing the  
10 burning of fossil fuels and the associated environmental impacts  
11 and by reducing in-state fossil fuel consumption.

12 (d) The California Renewables Portfolio Standard Program is  
13 intended to complement the Renewable Energy Resources Program  
14 administered by the Department of Energy and established pursuant  
15 to Chapter 8.6 (commencing with Section 25740) of Division 15  
16 of the Public Resources Code.

17 (e) New and modified electric transmission facilities may be  
18 necessary to facilitate the state achieving its renewables portfolio  
19 standard targets.

20 ~~SEC. 368:~~

21 *SEC. 367.* Section 399.12 of the Public Utilities Code is  
22 amended to read:

23 399.12. For purposes of this article, the following terms have  
24 the following meanings:

25 (a) “Conduit hydroelectric facility” means a facility for the  
26 generation of electricity that uses only the hydroelectric potential  
27 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other  
28 manmade conduit that is operated to distribute water for a  
29 beneficial use.

30 (b) “Delivered” and “delivery” have the same meaning as  
31 provided in subdivision (a) of Section 25741 of the Public  
32 Resources Code.

33 (c) “Eligible renewable energy resource” means an electric  
34 generating facility that meets the definition of “in-state renewable  
35 electricity generation facility” in Section 25741 of the Public  
36 Resources Code, subject to the following limitations:

37 (1) (A) An existing small hydroelectric generation facility of  
38 30 megawatts or less shall be eligible only if a retail seller or local  
39 publicly owned electric utility owned or procured the electricity  
40 from the facility as of December 31, 2005. A new hydroelectric

1 facility is not an eligible renewable energy resource if it will cause  
2 an adverse impact on instream beneficial uses or cause a change  
3 in the volume or timing of streamflow.

4 (B) Notwithstanding subparagraph (A), a conduit hydroelectric  
5 facility of 30 megawatts or less that commenced operation before  
6 January 1, 2006, is an eligible renewable energy resource. A  
7 conduit hydroelectric facility of 30 megawatts or less that  
8 commences operation after December 31, 2005, is an eligible  
9 renewable energy resource so long as it does not cause an adverse  
10 impact on instream beneficial uses or cause a change in the volume  
11 or timing of streamflow.

12 (2) A facility engaged in the combustion of municipal solid  
13 waste shall not be considered an eligible renewable resource unless  
14 it is located in Stanislaus County and was operational prior to  
15 September 26, 1996.

16 (d) “Procure” means that a retail seller or local publicly owned  
17 electric utility receives delivered electricity generated by an eligible  
18 renewable energy resource that it owns or for which it has entered  
19 into an electricity purchase agreement. Nothing in this article is  
20 intended to imply that the purchase of electricity from third parties  
21 in a wholesale transaction is the preferred method of fulfilling a  
22 retail seller’s obligation to comply with this article or the obligation  
23 of a local publicly owned electric utility to meet its renewables  
24 portfolio standard implemented pursuant to Section 387.

25 (e) “Renewables portfolio standard” means the specified  
26 percentage of electricity generated by eligible renewable energy  
27 resources that a retail seller is required to procure pursuant to this  
28 article or the obligation of a local publicly owned electric utility  
29 to meet its renewables portfolio standard implemented pursuant  
30 to Section 387.

31 (f) (1) “Renewable energy credit” means a certificate of proof,  
32 issued through the accounting system established by the  
33 Department of Energy pursuant to Section 399.13, that one unit  
34 of electricity was generated and delivered by an eligible renewable  
35 energy resource.

36 (2) “Renewable energy credit” includes all renewable and  
37 environmental attributes associated with the production of  
38 electricity from the eligible renewable energy resource, except for  
39 an emissions reduction credit issued pursuant to Section 40709 of  
40 the Health and Safety Code and any credits or payments associated

1 with the reduction of solid waste and treatment benefits created  
 2 by the utilization of biomass or biogas fuels.

3 (3) No electricity generated by an eligible renewable energy  
 4 resource attributable to the use of nonrenewable fuels, beyond a  
 5 de minimis quantity, as determined by the Department of Energy,  
 6 shall result in the creation of a renewable energy credit.

7 (g) “Retail seller” means an entity engaged in the retail sale of  
 8 electricity to end-use customers located within the state, including  
 9 any of the following:

10 (1) An electrical corporation, as defined in Section 218.

11 (2) A community choice aggregator. The commission shall  
 12 institute a rulemaking to determine the manner in which a  
 13 community choice aggregator will participate in the renewables  
 14 portfolio standard program subject to the same terms and conditions  
 15 applicable to an electrical corporation.

16 (3) An electric service provider, as defined in Section 218.3,  
 17 for all sales of electricity to customers beginning January 1, 2006.  
 18 The commission shall institute a rulemaking to determine the  
 19 manner in which electric service providers will participate in the  
 20 renewables portfolio standard program. The electric service  
 21 provider shall be subject to the same terms and conditions  
 22 applicable to an electrical corporation pursuant to this article. This  
 23 paragraph does not impair a contract entered into between an  
 24 electric service provider and a retail customer prior to the  
 25 suspension of direct access by the commission pursuant to Section  
 26 80110 of the Water Code.

27 (4) “Retail seller” does not include any of the following:

28 (A) A corporation or person employing cogeneration technology  
 29 or producing electricity consistent with subdivision (b) of Section  
 30 218.

31 (B) The Department of Water Resources acting in its capacity  
 32 pursuant to Division 27 (commencing with Section 80000) of the  
 33 Water Code.

34 (C) A local publicly owned electric utility.

35 ~~SEC. 369.~~

36 ~~SEC. 368.~~ Section 399.12.5 of the Public Utilities Code is  
 37 amended to read:

38 399.12.5. (a) Notwithstanding subdivision (c) of Section  
 39 399.12, a small hydroelectric generation facility that satisfies the  
 40 criteria for an eligible renewable energy resource pursuant to

1 Section 399.12 shall not lose its eligibility if efficiency  
2 improvements undertaken after January 1, 2008, cause the  
3 generating capacity of the facility to exceed 30 megawatts, and  
4 the efficiency improvements do not result in an adverse impact on  
5 instream beneficial uses or cause a change in the volume or timing  
6 of streamflow. The entire generating capacity of the facility shall  
7 be eligible.

8 (b) Notwithstanding subdivision (c) of Section 399.12, the  
9 incremental increase in the amount of electricity generated from  
10 a hydroelectric generation facility as a result of efficiency  
11 improvements at the facility, is electricity from an eligible  
12 renewable energy resource, without regard to the electrical output  
13 of the facility, if all of the following conditions are met:

14 (1) The incremental increase is the result of efficiency  
15 improvements from a retrofit that do not result in an adverse impact  
16 on instream beneficial uses or cause a change in the volume or  
17 timing of streamflow.

18 (2) The hydroelectric generation facility has, within the  
19 immediately preceding 15 years, received certification from the  
20 State Water Resources Control Board pursuant to Section 401 of  
21 the Clean Water Act (33 U.S.C. Sec. 1341), or has received  
22 certification from a regional board to which the state board has  
23 delegated authority to issue certification, unless the facility is  
24 exempt from certification because there is no potential for discharge  
25 into waters of the United States.

26 (3) The hydroelectric generation facility was operational prior  
27 to January 1, 2007, the efficiency improvements are initiated on  
28 or after January 1, 2008, the efficiency improvements are not the  
29 result of routine maintenance activities, as determined by the  
30 Department of Energy, by action of the California Energy Board,  
31 and the efficiency improvements were not included in any resource  
32 plan sponsored by the facility owner prior to January 1, 2008.

33 (4) All of the incremental increase in electricity resulting from  
34 the efficiency improvements are demonstrated to result from a  
35 long-term financial commitment by the retail seller or local publicly  
36 owned electric utility. For purposes of this paragraph, “long-term  
37 financial commitment” means either new ownership investment  
38 in the facility by the retail seller or local publicly owned electric  
39 utility or a new or renewed contract with a term of 10 or more  
40 years, which includes procurement of the incremental generation.

1 (c) The incremental increase in the amount of electricity  
2 generated from a hydroelectric generation facility as a result of  
3 efficiency improvements at the facility are not eligible for  
4 supplemental energy payments pursuant to the Renewable Energy  
5 Resources Program (Chapter 8.6 (commencing with Section 25740)  
6 of Division 15 of the Public Resources Code), or a successor  
7 program.

8 ~~SEC. 370.~~

9 *SEC. 369.* Section 399.13 of the Public Utilities Code is  
10 amended to read:

11 399.13. The Department of Energy, by action of the California  
12 Energy Board, shall do all of the following:

13 (a) Certify eligible renewable energy resources that it determines  
14 meet the criteria described in subdivision (b) of Section 399.12.

15 (b) Design and implement an accounting system to verify  
16 compliance with the renewables portfolio standard by retail sellers,  
17 to ensure that electricity generated by an eligible renewable energy  
18 resource is counted only once for the purpose of meeting the  
19 renewables portfolio standard of this state or any other state, to  
20 certify renewable energy credits produced by eligible renewable  
21 energy resources, and to verify retail product claims in this state  
22 or any other state. In establishing the guidelines governing this  
23 accounting system, the Department of Energy shall collect data  
24 from electricity market participants that it deems necessary to  
25 verify compliance of retail sellers, in accordance with the  
26 requirements of this article and the California Public Records Act  
27 (Chapter 3.5 (commencing with Section 6250) of Division 7 of  
28 Title 1 of the Government Code). In seeking data from electrical  
29 corporations, the Department of Energy shall request data from  
30 the commission. The commission shall collect data from electrical  
31 corporations and remit the data to the Department of Energy within  
32 90 days of the request.

33 (c) Establish a system for tracking and verifying renewable  
34 energy credits that, through the use of independently audited data,  
35 verifies the generation and delivery of electricity associated with  
36 each renewable energy credit and protects against multiple counting  
37 of the same renewable energy credit. The Department of Energy  
38 shall consult with other western states and with the Western  
39 Electricity Coordinating Council in the development of this system.

1 (d) Certify, for purposes of compliance with the renewable  
2 portfolio standard requirements by a retail seller, the eligibility of  
3 renewable energy credits associated with deliveries of electricity  
4 by an eligible renewable energy resource to a local publicly owned  
5 electric utility, if the Department of Energy determines that the  
6 following conditions have been satisfied:

7 (1) The local publicly owned electric utility that is procuring  
8 the electricity is in compliance with the requirements of Section  
9 387.

10 (2) The local publicly owned electric utility has established an  
11 annual renewables portfolio standard target comparable to those  
12 applicable to an electrical corporation, is procuring sufficient  
13 eligible renewable energy resources to satisfy the targets, and will  
14 not fail to satisfy the targets in the event that the renewable energy  
15 credit is sold to another retail seller.

16 ~~SEC. 371.~~

17 *SEC. 370.* Section 399.15 of the Public Utilities Code is  
18 amended to read:

19 399.15. (a) In order to fulfill unmet long-term resource needs,  
20 the commission shall establish a renewables portfolio standard  
21 requiring all electrical corporations to procure a minimum quantity  
22 of electricity generated by eligible renewable energy resources as  
23 a specified percentage of total kilowatthours sold to their retail  
24 end-use customers each calendar year, subject to limits on the total  
25 amount of costs expended above the market prices determined in  
26 subdivision (c), to achieve the targets established under this article.

27 (b) The commission shall implement annual procurement targets  
28 for each retail seller as follows:

29 (1) Each retail seller shall, pursuant to subdivision (a), increase  
30 its total procurement of eligible renewable energy resources by at  
31 least an additional 1 percent of retail sales per year so that 20  
32 percent of its retail sales are procured from eligible renewable  
33 energy resources no later than December 31, 2010. A retail seller  
34 with 20 percent of retail sales procured from eligible renewable  
35 energy resources in any year shall not be required to increase its  
36 procurement of renewable energy resources in the following year.

37 (2) For purposes of setting annual procurement targets, the  
38 commission shall establish an initial baseline for each retail seller  
39 based on the actual percentage of retail sales procured from eligible

1 renewable energy resources in 2001, and to the extent applicable,  
2 adjusted going forward pursuant to Section 399.12.

3 (3) Only for purposes of establishing these targets, the  
4 commission shall include all electricity sold to retail customers by  
5 the Department of Water Resources pursuant to Section 80100 of  
6 the Water Code in the calculation of retail sales by an electrical  
7 corporation.

8 (4) In the event that a retail seller fails to procure sufficient  
9 eligible renewable energy resources in a given year to meet any  
10 annual target established pursuant to this subdivision, the retail  
11 seller shall procure additional eligible renewable energy resources  
12 in subsequent years to compensate for the shortfall, subject to the  
13 limitation on costs for electrical corporations established pursuant  
14 to subdivision (d).

15 (c) The commission shall establish a methodology to determine  
16 the market price of electricity for terms corresponding to the length  
17 of contracts with eligible renewable energy resources, in  
18 consideration of the following:

19 (1) The long-term market price of electricity for fixed price  
20 contracts, determined pursuant to an electrical corporation's general  
21 procurement activities as authorized by the commission.

22 (2) The long-term ownership, operating, and fixed-price fuel  
23 costs associated with fixed-price electricity from new generating  
24 facilities.

25 (3) The value of different products including baseload, peaking,  
26 and as-available electricity.

27 (d) The commission shall establish, for each electrical  
28 corporation, a limitation on the total costs expended above the  
29 market prices determined in subdivision (c) for the procurement  
30 of eligible renewable energy resources to achieve the annual  
31 procurement targets established under this article.

32 (1) The cost limitation shall be equal to the amount of funds  
33 transferred to each electrical corporation by the former State Energy  
34 Resources Conservation and Development Commission pursuant  
35 to subdivision (b) of Section 25743 of the Public Resources Code  
36 and the 51.5 percent of the funds which would have been collected  
37 through January 1, 2012, from the customers of the electrical  
38 corporation based on the renewable energy public goods charge  
39 in effect as of January 1, 2007.

1 (2) The above-market costs of a contract selected by an electrical  
2 corporation may be counted toward the cost limitation if all of the  
3 following conditions are satisfied:

4 (A) The contract has been approved by the commission and was  
5 selected through a competitive solicitation pursuant to the  
6 requirements of subdivision (d) of Section 399.14.

7 (B) The contract covers a duration of no less than 10 years.

8 (C) The contracted project is a new or repowered facility  
9 commencing commercial operations on or after January 1, 2005.

10 (D) No purchases of renewable energy credits may be eligible  
11 for consideration as an above-market cost.

12 (E) The above-market costs of a contract do not include any  
13 indirect expenses including imbalance energy charges, sale of  
14 excess energy, decreased generation from existing resources, or  
15 transmission upgrades.

16 (3) If the cost limitation for an electrical corporation is  
17 insufficient to support the total costs expended above the market  
18 prices determined in subdivision (c) for the procurement of eligible  
19 renewable energy resources satisfying the conditions of paragraph  
20 (2), the commission shall allow the electrical corporation to limit  
21 its procurement to the quantity of eligible renewable energy  
22 resources that can be procured at or below the market prices  
23 established in subdivision (c).

24 (4) This section does not prevent an electrical corporation from  
25 voluntarily proposing to procure eligible renewable energy  
26 resources at above-market prices that are not counted toward the  
27 cost limitation. Any voluntary procurement involving above-market  
28 costs shall be subject to commission approval prior to the expense  
29 being recovered in rates.

30 (e) The establishment of a renewables portfolio standard shall  
31 not constitute implementation by the commission of the federal  
32 Public Utility Regulatory Policies Act of 1978 (Public Law  
33 95-617).

34 (f) The commission shall consult with the Department of Energy  
35 in calculating market prices under subdivision (c) and establishing  
36 other renewables portfolio standard policies.

37 ~~SEC. 372.~~

38 *SEC. 371.* Section 399.16 of the Public Utilities Code is  
39 amended to read:

1 399.16. (a) The commission, by rule, may authorize the use  
2 of renewable energy credits to satisfy the requirements of the  
3 renewables portfolio standard established pursuant to this article,  
4 subject to the following conditions:

5 (1) Prior to authorizing any renewable energy credit to be used  
6 toward satisfying annual procurement targets, the commission and  
7 the Department of Energy, by action of the California Energy  
8 Board, shall conclude that the tracking system established pursuant  
9 to subdivision (c) of Section 399.13, is operational, is capable of  
10 independently verifying the electricity generated by an eligible  
11 renewable energy resource and delivered to the retail seller, and  
12 can ensure that renewable energy credits shall not be double  
13 counted by any seller of electricity within the service territory of  
14 the Western Electricity Coordinating Council (WECC).

15 (2) A renewable energy credit shall be counted only once for  
16 compliance with the renewables portfolio standard of this state or  
17 any other state, or for verifying retail product claims in this state  
18 or any other state.

19 (3) The electricity is delivered to a retail seller, the Independent  
20 System Operator, or a local publicly owned electric utility.

21 (4) All revenues received by an electrical corporation for the  
22 sale of a renewable energy credit shall be credited to the benefit  
23 of ratepayers.

24 (5) Renewable energy credits shall not be created for electricity  
25 generated pursuant to any electricity purchase contract with a retail  
26 seller or a local publicly owned electric utility executed before  
27 January 1, 2005, unless the contract contains explicit terms and  
28 conditions specifying the ownership or disposition of those credits.  
29 Deliveries under those contracts shall be tracked through the  
30 accounting system described in subdivision (b) of Section 399.13  
31 and included in the baseline quantity of eligible renewable energy  
32 resources of the purchasing retail seller pursuant to Section 399.15.

33 (6) Renewable energy credits shall not be created for electricity  
34 generated under any electricity purchase contract executed after  
35 January 1, 2005, pursuant to the federal Public Utility Regulatory  
36 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries  
37 under the electricity purchase contracts shall be tracked through  
38 the accounting system described in subdivision (b) of Section  
39 399.12 and count toward the renewables portfolio standard  
40 obligations of the purchasing retail seller.

1 (7) The commission may limit the quantity of renewable energy  
2 credits that may be procured unbundled from electricity generation  
3 by any retail seller, to meet the requirements of this article.

4 (8) An electrical corporation shall not be obligated to procure  
5 renewable energy credits to satisfy the requirements of this article  
6 in the event that the total costs expended above the applicable  
7 market prices for the procurement of eligible renewable energy  
8 resources exceeds the cost limitation established pursuant to  
9 subdivision (d) of Section 399.15.

10 (9) Any additional condition that the commission determines  
11 is reasonable.

12 (b) The commission shall allow an electrical corporation to  
13 recover the reasonable costs of purchasing renewable energy credits  
14 in rates.

15 ~~SEC. 373.~~

16 *SEC. 372.* Section 399.17 of the Public Utilities Code is  
17 amended to read:

18 399.17. (a) Subject to the provisions of this section, the  
19 requirements of this article apply to an electrical corporation with  
20 60,000 or fewer customer accounts in California that serves retail  
21 end-use customers outside California.

22 (b) For an electrical corporation with 60,000 or fewer customer  
23 accounts in California that serves retail end-use customers outside  
24 California, an eligible renewable energy resource includes a facility  
25 that is located outside California, if the facility is connected to the  
26 Western Electricity Coordinating Council (WECC) transmission  
27 system, provided all of the following conditions are met:

28 (1) The electricity generated by the facility is procured by the  
29 electrical corporation on behalf of its California customers and is  
30 not used to fulfill renewable energy procurement requirements in  
31 other states.

32 (2) The electrical corporation participates in, and complies with,  
33 the accounting system administered by the Department of Energy,  
34 by action of the California Energy Board, pursuant to subdivision  
35 (b) of Section 399.13.

36 (3) The Department of Energy, by action of the California  
37 Energy Board, verifies that the electricity generated by the facility  
38 is eligible to meet the annual procurement targets of this article.

39 (c) The commission shall determine the annual procurement  
40 targets for an electrical corporation with 60,000 or fewer customer

1 accounts in California that serves retail end-use customers outside  
2 California, as a specified percentage of total kilowatthours sold  
3 by the electrical corporation to its retail end-use customers in  
4 California in a calendar year.

5 (d) An electrical corporation with 60,000 or fewer customer  
6 accounts in California that serves retail end-use customers outside  
7 California, may use an integrated resource plan prepared in  
8 compliance with the requirements of another state utility regulatory  
9 commission, to fulfill the requirement to prepare a renewable  
10 energy procurement plan pursuant to this article, provided the plan  
11 meets the requirements of Sections 399.11, 399.12, 399.13, and  
12 399.14, as modified by this section.

13 (e) Procurement and administrative costs associated with  
14 long-term contracts entered into by an electrical corporation with  
15 60,000 or fewer customer accounts in California that serves retail  
16 end-use customers outside California, for eligible renewable energy  
17 resources pursuant to this article, at or below the market price  
18 determined by the commission pursuant to subdivision (c) of  
19 Section 399.15, shall be deemed reasonable per se, and shall be  
20 recoverable in rates of the electrical corporation's California  
21 customers, provided the costs are not recoverable in rates in other  
22 states served by the electrical corporation.

23 ~~SEC. 374.~~

24 *SEC. 373.* Section 411 is added to the Public Utilities Code,  
25 to read:

26 411. All fees collected by the commission from electrical  
27 corporations and gas corporations to support those functions of  
28 the commission in reviewing and issuing certificates of public  
29 convenience and necessity that are transferred to the California  
30 Energy Board within the Department of Energy pursuant to  
31 subdivision (b) of Section 1001, shall be identified and transferred  
32 to the Secretary of Energy, at least quarterly, upon the assumption  
33 by the department of those functions.

34 ~~SEC. 375.~~

35 *SEC. 374.* Section 454.5 of the Public Utilities Code is amended  
36 to read:

37 454.5. (a) The commission shall specify the allocation of  
38 electricity, including quantity, characteristics, and duration of  
39 electricity delivery, that the Department of Water Resources shall  
40 provide under its power purchase agreements to the customers of

1 each electrical corporation, which shall be reflected in the electrical  
2 corporation's proposed procurement plan. Each electrical  
3 corporation shall file a proposed procurement plan with the  
4 commission not later than 60 days after the commission specifies  
5 the allocation of electricity. The proposed procurement plan shall  
6 specify the date that the electrical corporation intends to resume  
7 procurement of electricity for its retail customers, consistent with  
8 its obligation to serve. After the commission's adoption of a  
9 procurement plan, the commission shall allow not less than 60  
10 days before the electrical corporation resumes procurement  
11 pursuant to this section.

12 (b) An electrical corporation's proposed procurement plan shall  
13 include, but not be limited to, all of the following:

14 (1) An assessment of the price risk associated with the electrical  
15 corporation's portfolio, including any utility-retained generation,  
16 existing power purchase and exchange contracts, and proposed  
17 contracts or purchases under which an electrical corporation will  
18 procure electricity, electricity demand reductions, and  
19 electricity-related products and the remaining open position to be  
20 served by spot market transactions.

21 (2) A definition of each electricity product, electricity-related  
22 product, and procurement related financial product, including  
23 support and justification for the product type and amount to be  
24 procured under the plan.

25 (3) The duration of the plan.

26 (4) The duration, timing, and range of quantities of each product  
27 to be procured.

28 (5) A competitive procurement process under which the  
29 electrical corporation may request bids for procurement-related  
30 services, including the format and criteria of that procurement  
31 process.

32 (6) An incentive mechanism, if any incentive mechanism is  
33 proposed, including the type of transactions to be covered by that  
34 mechanism, their respective procurement benchmarks, and other  
35 parameters needed to determine the sharing of risks and benefits.

36 (7) The upfront standards and criteria by which the acceptability  
37 and eligibility for rate recovery of a proposed procurement  
38 transaction will be known by the electrical corporation prior to  
39 execution of the transaction. This shall include an expedited  
40 approval process for the commission's review of proposed contracts

1 and subsequent approval or rejection thereof. The electrical  
 2 corporation shall propose alternative procurement choices in the  
 3 event a contract is rejected.

4 (8) Procedures for updating the procurement plan.

5 (9) A showing that the procurement plan will achieve the  
 6 following:

7 (A) The electrical corporation will, in order to fulfill its unmet  
 8 resource needs and in furtherance of Section 701.3, until a 20  
 9 percent renewable resources portfolio is achieved, procure  
 10 renewable energy resources with the goal of ensuring that at least  
 11 an additional 1 percent per year of the electricity sold by the  
 12 electrical corporation is generated from renewable energy  
 13 resources, provided sufficient funds are made available pursuant  
 14 to Sections 399.6 and 399.15, to cover the above-market costs for  
 15 new renewable energy resources.

16 (B) The electrical corporation will create or maintain a  
 17 diversified procurement portfolio consisting of both short-term  
 18 and long-term electricity and electricity-related and demand  
 19 reduction products.

20 (C) The electrical corporation will first meet its unmet resource  
 21 needs through all available energy efficiency and demand reduction  
 22 resources that are cost effective, reliable, and feasible.

23 (10) The electrical corporation’s risk management policy,  
 24 strategy, and practices, including specific measures of price  
 25 stability.

26 (11) A plan to achieve appropriate increases in diversity of  
 27 ownership and diversity of fuel supply of nonutility electrical  
 28 generation.

29 (12) A mechanism for recovery of reasonable administrative  
 30 costs related to procurement in the generation component of rates.

31 (c) The commission shall review and accept, modify, or reject  
 32 each electrical corporation’s procurement plan. The commission’s  
 33 review shall consider each electrical corporation’s individual  
 34 procurement situation, and shall give strong consideration to that  
 35 situation in determining which one or more of the features set forth  
 36 in this subdivision shall apply to that electrical corporation. A  
 37 procurement plan approved by the commission shall contain one  
 38 or more of the following features, provided that the commission  
 39 may not approve a feature or mechanism for an electrical  
 40 corporation if it finds that the feature or mechanism would impair

1 the restoration of an electrical corporation's creditworthiness or  
2 would lead to a deterioration of an electrical corporation's  
3 creditworthiness:

4 (1) A competitive procurement process under which the  
5 electrical corporation may request bids for procurement-related  
6 services. The commission shall specify the format of that  
7 procurement process, as well as criteria to ensure that the auction  
8 process is open and adequately subscribed. Any purchases made  
9 in compliance with the commission-authorized process shall be  
10 recovered in the generation component of rates.

11 (2) An incentive mechanism that establishes a procurement  
12 benchmark or benchmarks and authorizes the electrical corporation  
13 to procure from the market, subject to comparing the electrical  
14 corporation's performance to the commission-authorized  
15 benchmark or benchmarks. The incentive mechanism shall be  
16 clear, achievable, and contain quantifiable objectives and standards.  
17 The incentive mechanism shall contain balanced risk and reward  
18 incentives that limit the risk and reward of an electrical corporation.

19 (3) Upfront achievable standards and criteria by which the  
20 acceptability and eligibility for rate recovery of a proposed  
21 procurement transaction will be known by the electrical corporation  
22 prior to the execution of the bilateral contract for the transaction.  
23 The commission shall provide for expedited review and either  
24 approve or reject the individual contracts submitted by the electrical  
25 corporation to ensure compliance with its procurement plan. To  
26 the extent the commission rejects a proposed contract pursuant to  
27 this criteria, the commission shall designate alternative procurement  
28 choices obtained in the procurement plan that will be recoverable  
29 for ratemaking purposes.

30 (d) A procurement plan approved by the commission shall  
31 accomplish each of the following objectives:

32 (1) Enable the electrical corporation to fulfill its obligation to  
33 serve its customers at just and reasonable rates.

34 (2) Eliminate the need for after-the-fact reasonableness reviews  
35 of an electrical corporation's actions in compliance with an  
36 approved procurement plan, including resulting electricity  
37 procurement contracts, practices, and related expenses. However,  
38 the commission may establish a regulatory process to verify and  
39 ensure that each contract was administered in accordance with the

1 terms of the contract, and contract disputes which may arise are  
2 reasonably resolved.

3 (3) Ensure timely recovery of prospective procurement costs  
4 incurred pursuant to an approved procurement plan. The  
5 commission shall establish rates based on forecasts of procurement  
6 costs adopted by the commission, actual procurement costs  
7 incurred, or combination thereof, as determined by the commission.  
8 The commission shall establish power procurement balancing  
9 accounts to track the differences between recorded revenues and  
10 costs incurred pursuant to an approved procurement plan. The  
11 commission shall review the power procurement balancing  
12 accounts, not less than semiannually, and shall adjust rates or order  
13 refunds, as necessary, to promptly amortize a balancing account,  
14 according to a schedule determined by the commission. Until  
15 January 1, 2006, the commission shall ensure that any  
16 overcollection or undercollection in the power procurement  
17 balancing account does not exceed 5 percent of the electrical  
18 corporation's actual recorded generation revenues for the prior  
19 calendar year excluding revenues collected for the Department of  
20 Water Resources. The commission shall determine the schedule  
21 for amortizing the overcollection or undercollection in the  
22 balancing account to ensure that the 5 percent threshold is not  
23 exceeded. After January 1, 2006, this adjustment shall occur when  
24 deemed appropriate by the commission consistent with the  
25 objectives of this section.

26 (4) Moderate the price risk associated with serving its retail  
27 customers, including the price risk embedded in its long-term  
28 supply contracts, by authorizing an electrical corporation to enter  
29 into financial and other electricity-related product contracts.

30 (5) Provide for just and reasonable rates, with an appropriate  
31 balancing of price stability and price level in the electrical  
32 corporation's procurement plan.

33 (e) The commission shall provide for the periodic review and  
34 prospective modification of an electrical corporation's procurement  
35 plan.

36 (f) The commission may engage an independent consultant or  
37 advisory service to evaluate risk management and strategy. The  
38 reasonable costs of any consultant or advisory service is a  
39 reimbursable expense and eligible for funding pursuant to Section  
40 631.

1 (g) The commission shall adopt appropriate procedures to ensure  
2 the confidentiality of any market sensitive information submitted  
3 in an electrical corporation's proposed procurement plan or  
4 resulting from or related to its approved procurement plan,  
5 including, but not limited to, proposed or executed power purchase  
6 agreements, data request responses, or consultant reports, or any  
7 combination, provided that the Office of Ratepayer Advocates and  
8 other consumer groups that are nonmarket participants shall be  
9 provided access to this information under confidentiality  
10 procedures authorized by the commission.

11 (h) This section does not alter, modify, or amend the  
12 commission's oversight of affiliate transactions under its rules and  
13 decisions or the commission's existing authority to investigate and  
14 penalize an electrical corporation's alleged fraudulent activities,  
15 or to disallow costs incurred as a result of gross incompetence,  
16 fraud, abuse, or similar grounds. This section does not expand,  
17 modify, or limit the Department of Energy's existing authority and  
18 responsibilities as set forth in Sections 25216, 25216.5, and 25323  
19 of the Public Resources Code.

20 (i) An electrical corporation that serves less than 500,000 electric  
21 retail customers within the state may file with the commission a  
22 request for exemption from this section, which the commission  
23 shall grant upon a showing of good cause.

24 (j) (1) Prior to its approval pursuant to Section 851 of any  
25 divestiture of generation assets owned by an electrical corporation  
26 on or after September 24, 2002, the commission shall determine  
27 the impact of the proposed divestiture on the electrical  
28 corporation's procurement rates and shall approve a divestiture  
29 only to the extent it finds, taking into account the effect of the  
30 divestiture on procurement rates, that the divestiture is in the public  
31 interest and will result in net ratepayer benefits.

32 (2) Any electrical corporation's procurement necessitated as a  
33 result of the divestiture of generation assets on or after September  
34 24, 2002, shall be subject to the mechanisms and procedures set  
35 forth in this section only if its actual cost is less than the recent  
36 historical cost of the divested generation assets.

37 (3) Notwithstanding paragraph (2), the commission may deem  
38 proposed procurement eligible to use the procedures in this section  
39 upon its approval of asset divestiture pursuant to Section 851.

1     ~~SEC. 376.~~

2     ~~SEC. 375.~~ Section 464 of the Public Utilities Code is amended  
3 to read:

4     464. (a) Reasonable expenditures by transmission owners that  
5 are electrical corporations to plan, design, and engineer  
6 reconfiguration, replacement, or expansion of transmission facilities  
7 are in the public interest and are deemed prudent if made for the  
8 purpose of facilitating competition in electric generation markets,  
9 ensuring open access and comparable service, or maintaining or  
10 enhancing reliability, whether or not these expenditures are for  
11 transmission facilities that become operational.

12     (b) The commission and the Office of Energy Market Oversight  
13 in the Department of Energy shall jointly facilitate the efforts of  
14 the state’s transmission owning electrical corporations to obtain  
15 authorization from the Federal Energy Regulatory Commission to  
16 recover reasonable expenditures made for the purposes stated in  
17 subdivision (a).

18     (c) This section does not alter or affect the recovery of the  
19 reasonable costs of other electric facilities in rates pursuant to the  
20 commission’s existing ratemaking authority under this code or  
21 pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs.  
22 791a, et seq.). The commission may periodically review and adjust  
23 depreciation schedules and rates authorized for an electric plant  
24 that is under the jurisdiction of the commission and owned by an  
25 electrical corporation and periodically review and adjust  
26 depreciation schedules and rates authorized for a gas plant that is  
27 under the jurisdiction of the commission and owned by a gas  
28 corporation, consistent with this code.

29     ~~SEC. 377.~~

30     ~~SEC. 376.~~ Section 848.1 of the Public Utilities Code is amended  
31 to read:

32     848.1. (a) No later than 120 days after the effective date of  
33 this article, and from time to time thereafter, the recovery  
34 corporation shall apply to the commission for a determination that  
35 some or all of the recovery corporation’s recovery costs may be  
36 recovered through fixed recovery amounts, which would be  
37 recovery property under this article, and that any portion of the  
38 recovery corporation’s federal and State of California income and  
39 franchise taxes associated with those fixed recovery amounts and  
40 not financed from proceeds of recovery bonds be recovered through

1 fixed recovery tax amounts. The recovery corporation may request  
2 this determination by the commission in a separate proceeding or  
3 in an existing proceeding, or both. The recovery corporation shall  
4 in its application specify that consumers within its service territory  
5 would benefit from reduced rates on a present value basis through  
6 the issuance of recovery bonds. The commission shall designate  
7 fixed recovery amounts and any associated fixed recovery tax  
8 amounts as recoverable in one or more financing orders if the  
9 commission determines, as part of its findings in connection with  
10 the financing order, that the designation of the fixed recovery  
11 amounts and any associated fixed recovery tax amounts, and the  
12 issuance of recovery bonds in connection with fixed recovery  
13 amounts, would reduce the rates on a present value basis that  
14 consumers within the recovery corporation's service territory would  
15 pay if the financing order were not adopted. Fixed recovery  
16 amounts and any associated fixed recovery tax amounts shall only  
17 be imposed on existing and future consumers in the service  
18 territory. Consumers within the service territory shall continue to  
19 pay fixed recovery amounts and any associated fixed tax recovery  
20 amounts until the recovery bonds are paid in full by the financing  
21 entity. Once the recovery bonds have been paid in full, the payment  
22 by consumers of fixed recovery amounts and fixed recovery tax  
23 amounts shall terminate.

24 (b) The commission shall establish an effective mechanism that  
25 ensures recovery of recovery costs through fixed recovery amounts  
26 and any associated fixed recovery tax amounts from existing and  
27 future consumers in the service territory, provided that the costs  
28 shall not be recoverable from any of the following:

29 (1) New load or incremental load of an existing consumer of  
30 the recovery corporation where the load is being met through a  
31 direct transaction and the transaction does not require the use of  
32 transmission or distribution facilities owned by the recovery  
33 corporation.

34 (2) Customer generation departing load that is exempt from  
35 Department of Water Resources power charges pursuant to the  
36 commission's Decision No. 03-04-030, as modified by Decision  
37 No. 03-04-041, and as clarified and affirmed by Decision No.  
38 03-05-039, except that the load shall pay the costs as a component  
39 of and in proportion to any purchase of electricity delivered by the

1 recovery corporation under standby or other service made following  
2 its departure.

3 (3) The Department of Water Resources, with respect to the  
4 pumping, generation, and transmission facilities and operations of  
5 the State Water Resources Development System, except to the  
6 extent that system facilities receive electric service from the  
7 recovery corporation on or after December 19, 2003, under a  
8 commission-approved tariff.

9 (4) Retail electric load, continuously served by a local publicly  
10 owned electric utility from January 1, 2000, through the effective  
11 date of the act adding this section.

12 (5) Load that subsequently take electric service from a city  
13 where all the following conditions are met:

14 (A) The new load is from locations that never received electric  
15 service from the recovery corporation.

16 (B) The city owns and operates the local publicly owned electric  
17 utility.

18 (C) The local publicly owned electric utility served more than  
19 95 percent of the customers receiving electric service residing  
20 within the city limits prior to December 19, 2003.

21 (D) The city annexed the territory in which the load is located  
22 on or after December 19, 2003.

23 (E) Following annexation, the city provides all municipal  
24 services to the annexed territory that the city provides to other  
25 territory within the city limits, including electric service.

26 (F) The total load exempt from paying fixed recovery amounts  
27 and associated fixed recovery tax amounts pursuant to  
28 subparagraphs (A) through (D), inclusive, does not exceed 50  
29 megawatts, as determined by the commission, and any load above  
30 the 50 megawatt exemption amount shall be responsible for paying  
31 recovery amounts and associated fixed recovery tax amounts,  
32 except as provided in subdivision (c).

33 (c) Except as provided in paragraphs (4) and (5) of subdivision  
34 (b), the commission shall determine the extent to which fixed  
35 recovery amounts and any associated fixed recovery tax amounts  
36 are recoverable from new municipal load, consistent with the  
37 commission's determination in the limited rehearing granted in  
38 Decision 03-08-076. The determination of the commission shall  
39 be made on the earlier of the date it adopts a financing order or  
40 December 31, 2004.

1 (d) Except as provided in paragraphs (4) and (5) of subdivision  
2 (b) and in subdivision (c), the obligation to pay fixed recovery  
3 amounts and any associated fixed recovery tax amounts cannot be  
4 avoided by the formation of a local publicly owned electric utility  
5 on or after December 19, 2003, or by annexation of any portion  
6 of the service territory of the recovery corporation by an existing  
7 local publicly owned electric utility.

8 (e) Recovery bonds authorized by the commission's financing  
9 orders may be issued in one or more series on or before December  
10 31, 2006.

11 (f) The commission may issue financing orders in accordance  
12 with this article to facilitate the recovery, financing, or refinancing  
13 of recovery costs. A financing order may be adopted only upon  
14 the application of the recovery corporation and shall become  
15 effective in accordance with its terms only after the recovery  
16 corporation files with the commission the recovery corporation's  
17 written consent to all terms and conditions of the financing order.  
18 A financing order may specify how amounts collected from a  
19 consumer shall be allocated between fixed recovery amounts, any  
20 associated fixed recovery tax amounts, and other charges.

21 (g) Notwithstanding Section 455.5 or 1708, or any other  
22 provision of law, except as otherwise provided in Section 848.7  
23 or in this subdivision with respect to recovery property that has  
24 been made the basis for the issuance of recovery bonds and with  
25 respect to any associated fixed recovery tax amounts, the financing  
26 order, the fixed recovery amounts and any associated fixed  
27 recovery tax amounts shall be irrevocable, and the commission  
28 shall not have authority either by rescinding, altering, or amending  
29 the financing order or otherwise, to revalue or revise for ratemaking  
30 purposes, the recovery costs or the costs of recovering, financing,  
31 or refinancing the recovery costs, determine that the fixed recovery  
32 amounts, any associated fixed recovery tax amounts or rates are  
33 unjust or unreasonable, or in any way reduce or impair the value  
34 of recovery property or of the right to receive any associated fixed  
35 recovery tax amounts either directly or indirectly by taking fixed  
36 recovery amounts or any associated fixed recovery tax amounts  
37 into account when setting other rates for the recovery corporation  
38 or when setting charges for the Department of Water Resources;  
39 nor shall the amount of revenues arising with respect thereto be  
40 subject to reduction, impairment, postponement, or termination.

1 Except as otherwise provided in this subdivision, the State of  
2 California does hereby pledge and agree with the recovery  
3 corporation, owners of recovery property, and holders of recovery  
4 bonds that the state shall neither limit nor alter the fixed recovery  
5 amounts, any associated fixed recovery tax amounts, recovery  
6 property, financing orders, or any rights thereunder until the  
7 recovery bonds, together with the interest thereon, are fully paid  
8 and discharged, and any associated fixed recovery tax amounts  
9 have been satisfied or, in the alternative, have been refinanced  
10 through an additional issue of recovery bonds; provided nothing  
11 contained in this section shall preclude the limitation or alteration  
12 if and when adequate provision shall be made by law for the  
13 protection of the recovery corporation, owners, and holders. The  
14 financing entity is authorized to include this pledge and undertaking  
15 for the state in these recovery bonds. Notwithstanding any other  
16 provision of this section, the commission shall approve adjustments  
17 to the fixed recovery amounts and any associated fixed recovery  
18 tax amounts as may be necessary to ensure timely recovery of all  
19 recovery costs that are the subject of the pertinent financing order,  
20 and the costs of capital associated with the recovery, financing, or  
21 refinancing thereof, including servicing and retiring the recovery  
22 bonds contemplated by the financing order. When setting other  
23 rates for the recovery corporation, this subdivision does not prevent  
24 the commission from taking into account either of the following:

25 (1) Any collection of fixed recovery amounts in excess of  
26 amounts actually required to pay recovery costs financed or  
27 refinanced by recovery bonds.

28 (2) Any collection of fixed recovery tax amounts in excess of  
29 amounts actually required to pay federal and State of California  
30 income and franchise taxes associated with fixed recovery amounts;  
31 provided that this would not result in a recharacterization of the  
32 tax, accounting, and other intended characteristics of the financing,  
33 including, but not limited to, either of the following:

34 (A) Treating the recovery bonds as debt of the recovery  
35 corporation or its affiliates for federal income tax purposes.

36 (B) Treating the transfer of the recovery property by the recovery  
37 corporation as a true sale for bankruptcy purposes.

38 (h) (1) Financing orders issued under this article do not  
39 constitute a debt or liability of the state or of any political  
40 subdivision thereof, and do not constitute a pledge of the full faith

1 and credit of the state or any of its political subdivisions, but are  
2 payable solely from the funds provided therefor under this article  
3 and shall be consistent with Sections 1 and 18 of Article XVI of  
4 the California Constitution. This subdivision shall in no way  
5 preclude bond guarantees or enhancements pursuant to this article.  
6 All recovery bonds shall contain on the face thereof a statement  
7 to the following effect: “Neither the full faith and credit nor the  
8 taxing power of the State of California is pledged to the payment  
9 of the principal of, or interest on, this bond.”

10 (2) The issuance of recovery bonds under this article shall not  
11 directly, indirectly, or contingently obligate the state or any  
12 political subdivision thereof to levy or to pledge any form of  
13 taxation therefor or to make any appropriation for their payment.

14 (i) The commission shall establish procedures for the expeditious  
15 processing of applications for financing orders, including the  
16 approval or disapproval thereof within 120 days of the recovery  
17 corporation making application therefor. The commission shall  
18 provide in any financing order for a procedure for the expeditious  
19 approval by the commission of periodic adjustments to the fixed  
20 recovery amounts and any associated fixed recovery tax amounts  
21 that are the subject of the pertinent financing order, as required by  
22 subdivision (g). The procedure shall require the commission to  
23 determine whether the adjustments are required on each anniversary  
24 of the issuance of the financing order, and at the additional intervals  
25 as may be provided for in the financing order, and for the  
26 adjustments, if required, to be approved within 90 days of each  
27 anniversary of the issuance of the financing order, or of each  
28 additional interval provided for in the financing order.

29 (j) Fixed recovery amounts are recovery property when, and to  
30 the extent that, a financing order authorizing the fixed recovery  
31 amounts has become effective in accordance with this article, and  
32 the recovery property shall thereafter continuously exist as property  
33 for all purposes with all of the rights and privileges of this article  
34 for the period and to the extent provided in the financing order,  
35 but in any event until the recovery bonds are paid in full, including  
36 all principal, interest, premium, costs, and arrearages thereon.

37 (k) This article and any financing order made pursuant to this  
38 article do not amend, reduce, modify, or otherwise affect the right  
39 of the Department of Water Resources to recover its revenue  
40 requirements and to receive the charges that it is to recover and

1 receive pursuant to Division 27 (commencing with Section 80000)  
2 of the Water Code, or pursuant to any agreement entered into by  
3 the commission and the Department of Water Resources pursuant  
4 to that division.

5 ~~SEC. 378.~~

6 *SEC. 377.* Section 1822 of the Public Utilities Code is amended  
7 to read:

8 1822. (a) Any computer model that is the basis for any  
9 testimony or exhibit in a hearing or proceeding before the  
10 commission shall be available to, and subject to verification by,  
11 the commission and parties to the hearing or proceedings to the  
12 extent necessary for cross-examination or rebuttal, subject to  
13 applicable rules of evidence, except that verification is not required  
14 for any electricity demand model or forecast prepared by the  
15 Department of Energy pursuant to Section 25309 or 25402.1 of  
16 the Public Resources Code and approved and adopted after a  
17 hearing during which testimony was offered subject to  
18 cross-examination. The commission shall afford each of these  
19 electricity demand models or forecasts the evidentiary weight it  
20 determines appropriate. This subdivision does not require the  
21 department to approve or adopt any electricity demand model or  
22 forecast.

23 (b) Testimony presented in a hearing or proceeding before the  
24 commission that is based in whole, or in part, on a computer model  
25 shall include a listing of all the equations and assumptions built  
26 into the model.

27 (c) A database that is used for any testimony or exhibit in a  
28 hearing or proceeding before the commission shall be reasonably  
29 accessible to the commission staff and parties to the hearing or  
30 proceeding to the extent necessary for cross-examination or  
31 rebuttal, subject to applicable rules of evidence, as applied in  
32 commission proceedings.

33 (d) The commission shall adopt rules and procedures to meet  
34 the requirements specified in subdivisions (a), (b), and (c). These  
35 rules shall include procedural safeguards that protect databases  
36 and models not owned by the public utility.

37 (e) The commission shall establish appropriate procedures for  
38 determining the appropriate level of compensation for a party's  
39 access.

1 (f) Each party shall have access to the computer programs and  
2 models of each other party to the extent provided by Section 1822.  
3 The commission shall not require a utility to provide a remote  
4 terminal or other direct physical link to the computer systems of  
5 a utility to a third party.

6 (g) The commission shall verify, validate, and review the  
7 computer models of any electric corporation that are used for the  
8 purpose of planning, operating, constructing, or maintaining the  
9 corporation's electricity transmission system, and that are the basis  
10 for testimony and exhibits in hearings and proceedings before the  
11 commission.

12 (h) The transmission computer models shall be available to, and  
13 subject to verification by, each party to a commission proceeding  
14 in accordance with subdivision (a) of Section 1822, and regulations  
15 adopted pursuant to subdivision (d) of Section 1822.

16 ~~SEC. 379.~~

17 *SEC. 378.* Section 2774.6 of the Public Utilities Code is  
18 amended to read:

19 2774.6. The commission, in consultation with the Department  
20 of Energy, shall develop a program for residential and commercial  
21 customer air-conditioning load control, as an element of each  
22 electrical corporation's tariffed service offerings paid for with  
23 electric rates. The goal of the program shall be to contribute to the  
24 adequacy of electricity supply and to help customers reduce their  
25 electric bills in a cost-effective manner. The program may include  
26 peak load reduction programs for residential and commercial  
27 air-conditioning systems, if the commission determines that the  
28 inclusion would be cost-effective.

29 ~~SEC. 380.~~

30 *SEC. 379.* Section 2827 of the Public Utilities Code, as  
31 amended by Chapter 6 of the Statutes of 2010, is amended to read:

32 2827. (a) The Legislature finds and declares that a program  
33 to provide net energy metering combined with net surplus  
34 compensation, co-energy metering, and wind energy co-metering  
35 for eligible customer-generators is one way to encourage substantial  
36 private investment in renewable energy resources, stimulate in-state  
37 economic growth, reduce demand for electricity during peak  
38 consumption periods, help stabilize California's energy supply  
39 infrastructure, enhance the continued diversification of California's  
40 energy resource mix, reduce interconnection and administrative

1 costs for electricity suppliers, and encourage conservation and  
2 efficiency.

3 (b) As used in this section, the following terms have the  
4 following meanings:

5 (1) “Co-energy metering” means a program that is the same in  
6 all other respects as a net energy metering program, except that  
7 the local publicly owned electric utility has elected to apply a  
8 generation-to-generation energy and time-of-use credit formula  
9 as provided in subdivision (i).

10 (2) “Electrical cooperative” means an electrical cooperative as  
11 defined in Section 2776.

12 (3) “Electric utility” means an electrical corporation, a local  
13 publicly owned electric utility, or an electrical cooperative, or any  
14 other entity, except an electric service provider, that offers electrical  
15 service. This section shall not apply to a local publicly owned  
16 electric utility that serves more than 750,000 customers and that  
17 also conveys water to its customers.

18 (4) “Eligible customer-generator” means a residential customer,  
19 small commercial customer as defined in subdivision (h) of Section  
20 331, or commercial, industrial, or agricultural customer of an  
21 electric utility, who uses a solar or a wind turbine electrical  
22 generating facility, or a hybrid system of both, with a capacity of  
23 not more than one megawatt that is located on the customer’s  
24 owned, leased, or rented premises, and is interconnected and  
25 operates in parallel with the electric grid, and is intended primarily  
26 to offset part or all of the customer’s own electrical requirements.

27 (5) “Net energy metering” means measuring the difference  
28 between the electricity supplied through the electric grid and the  
29 electricity generated by an eligible customer-generator and fed  
30 back to the electric grid over a 12-month period as described in  
31 subdivisions (c) and (h).

32 (6) “Net surplus customer-generator” means an eligible  
33 customer-generator that generates more electricity during a  
34 12-month period than is supplied by the electric utility to the  
35 eligible customer-generator during the same 12-month period.

36 (7) “Net surplus electricity” means all electricity generated by  
37 an eligible customer-generator measured in kilowatthours over a  
38 12-month period that exceeds the amount of electricity consumed  
39 by that eligible customer-generator.

1 (8) “Net surplus electricity compensation” means a per  
2 kilowatthour rate offered by the electric utility to the net surplus  
3 customer-generator for net surplus electricity that is set by the  
4 ratemaking authority pursuant to subdivision (h).

5 (9) “Ratemaking authority” means, for an electrical corporation  
6 or electrical cooperative, the commission, and for a local publicly  
7 owned electric utility, the local elected body responsible for setting  
8 the rates of the local publicly owned utility.

9 (10) “Wind energy co-metering” means any wind energy project  
10 greater than 50 kilowatts, but not exceeding one megawatt, where  
11 the difference between the electricity supplied through the electric  
12 grid and the electricity generated by an eligible customer-generator  
13 and fed back to the electric grid over a 12-month period is as  
14 described in subdivision (h). Wind energy co-metering shall be  
15 accomplished pursuant to Section 2827.8.

16 (c) (1) Every electric utility shall develop a standard contract  
17 or tariff providing for net energy metering, and shall make this  
18 standard contract or tariff available to eligible customer-generators,  
19 upon request, on a first-come-first-served basis until the time that  
20 the total rated generating capacity used by eligible  
21 customer-generators exceeds 5 percent of the electric utility’s  
22 aggregate customer peak demand. Net energy metering shall be  
23 accomplished using a single meter capable of registering the flow  
24 of electricity in two directions. An additional meter or meters to  
25 monitor the flow of electricity in each direction may be installed  
26 with the consent of the eligible customer-generator, at the expense  
27 of the electric utility, and the additional metering shall be used  
28 only to provide the information necessary to accurately bill or  
29 credit the eligible customer-generator pursuant to subdivision (h),  
30 or to collect solar or wind electric generating system performance  
31 information for research purposes. If the existing electrical meter  
32 of an eligible customer-generator is not capable of measuring the  
33 flow of electricity in two directions, the eligible customer-generator  
34 shall be responsible for all expenses involved in purchasing and  
35 installing a meter that is able to measure electricity flow in two  
36 directions. If an additional meter or meters are installed, the net  
37 energy metering calculation shall yield a result identical to that of  
38 a single meter. An eligible customer-generator that is receiving  
39 service other than through the standard contract or tariff may elect  
40 to receive service through the standard contract or tariff until the

1 electric utility reaches the generation limit set forth in this  
2 paragraph. Once the generation limit is reached, only eligible  
3 customer-generators that had previously elected to receive service  
4 pursuant to the standard contract or tariff have a right to continue  
5 to receive service pursuant to the standard contract or tariff.  
6 Eligibility for net energy metering does not limit an eligible  
7 customer-generator’s eligibility for any other rebate, incentive, or  
8 credit provided by the electric utility, or pursuant to any  
9 governmental program, including rebates and incentives provided  
10 pursuant to the California Solar Initiative.

11 (2) An electrical corporation shall include a provision in the net  
12 energy metering contract or tariff requiring that any customer with  
13 an existing electrical generating facility and meter who enters into  
14 a new net energy metering contract shall provide an inspection  
15 report to the electrical corporation, unless the electrical generating  
16 facility and meter have been installed or inspected within the  
17 previous three years. The inspection report shall be prepared by a  
18 California licensed contractor who is not the owner or operator of  
19 the facility and meter. A California licensed electrician shall  
20 perform the inspection of the electrical portion of the facility and  
21 meter.

22 (3) (A) On an annual basis, beginning in 2003, every electric  
23 utility shall make available to the ratemaking authority information  
24 on the total rated generating capacity used by eligible  
25 customer-generators that are customers of that provider in the  
26 provider’s service area and the net surplus electricity purchased  
27 by the electric utility pursuant to this section.

28 (B) An electric service provider operating pursuant to Section  
29 394 shall make available to the ratemaking authority the  
30 information required by this paragraph for each eligible  
31 customer-generator that is their customer for each service area of  
32 an electric corporation, local publicly owned electric utility, or  
33 electrical cooperative, in which the eligible customer-generator  
34 has net energy metering.

35 (C) The ratemaking authority shall develop a process for making  
36 the information required by this paragraph available to electric  
37 utilities, and for using that information to determine when, pursuant  
38 to paragraphs (1) and (4), an electric utility is not obligated to  
39 provide net energy metering to additional eligible  
40 customer-generators in its service area.

1 (4) An electric utility is not obligated to provide net energy  
2 metering to additional eligible customer-generators in its service  
3 area when the combined total peak demand of all electricity used  
4 by eligible customer-generators served by all the electric utilities  
5 in that service area furnishing net energy metering to eligible  
6 customer-generators exceeds 5 percent of the aggregate customer  
7 peak demand of those electric utilities.

8 (5) By January 1, 2010, the commission, in consultation with  
9 the Department of Energy, shall submit a report to the Governor  
10 and the Legislature on the costs and benefits of net energy  
11 metering, wind energy co-metering, and co-energy metering to  
12 participating customers and nonparticipating customers and with  
13 options to replace the economic costs and benefits of net energy  
14 metering, wind energy co-metering, and co-energy metering with  
15 a mechanism that more equitably balances the interests of  
16 participating and nonparticipating customers, and that incorporates  
17 the findings of the report on economic and environmental costs  
18 and benefits of net metering required by subdivision (n).

19 (d) Every electric utility shall make all necessary forms and  
20 contracts for net energy metering and net surplus electricity  
21 compensation service available for download from the Internet.

22 (e) (1) Every electric utility shall ensure that requests for  
23 establishment of net energy metering and net surplus electricity  
24 compensation are processed in a time period not exceeding that  
25 for similarly situated customers requesting new electric service,  
26 but not to exceed 30 working days from the date it receives a  
27 completed application form for net energy metering service or net  
28 surplus electricity compensation, including a signed interconnection  
29 agreement from an eligible customer-generator and the electric  
30 inspection clearance from the governmental authority having  
31 jurisdiction.

32 (2) Every electric utility shall ensure that requests for an  
33 interconnection agreement from an eligible customer-generator  
34 are processed in a time period not to exceed 30 working days from  
35 the date it receives a completed application form from the eligible  
36 customer-generator for an interconnection agreement.

37 (3) If an electric utility is unable to process a request within the  
38 allowable timeframe pursuant to paragraph (1) or (2), it shall notify  
39 the eligible customer-generator and the ratemaking authority of

1 the reason for its inability to process the request and the expected  
2 completion date.

3 (f) (1) If a customer participates in direct transactions pursuant  
4 to paragraph (1) of subdivision (b) of Section 365 with an electric  
5 service provider that does not provide distribution service for the  
6 direct transactions, the electric utility that provides distribution  
7 service for the eligible customer-generator is not obligated to  
8 provide net energy metering or net surplus electricity compensation  
9 to the customer.

10 (2) If a customer participates in direct transactions pursuant to  
11 paragraph (1) of subdivision (b) of Section 365 with an electric  
12 service provider, and the customer is an eligible  
13 customer-generator, the electric utility that provides distribution  
14 service for the direct transactions may recover from the customer's  
15 electric service provider the incremental costs of metering and  
16 billing service related to net energy metering and net surplus  
17 electricity compensation in an amount set by the ratemaking  
18 authority.

19 (g) Except for the time-variant kilowatthour pricing portion of  
20 any tariff adopted by the commission pursuant to paragraph (4) of  
21 subdivision (a) of Section 2851, each net energy metering contract  
22 or tariff shall be identical, with respect to rate structure, all retail  
23 rate components, and any monthly charges, to the contract or tariff  
24 to which the same customer would be assigned if the customer did  
25 not use an eligible solar or wind electrical generating facility,  
26 except that eligible customer-generators shall not be assessed  
27 standby charges on the electrical generating capacity or the  
28 kilowatthour production of an eligible solar or wind electrical  
29 generating facility. The charges for all retail rate components for  
30 eligible customer-generators shall be based exclusively on the  
31 customer-generator's net kilowatthour consumption over a  
32 12-month period, without regard to the eligible  
33 customer-generator's choice as to from whom it purchases  
34 electricity that is not self-generated. Any new or additional demand  
35 charge, standby charge, customer charge, minimum monthly  
36 charge, interconnection charge, or any other charge that would  
37 increase an eligible customer-generator's costs beyond those of  
38 other customers who are not eligible customer-generators in the  
39 rate class to which the eligible customer-generator would otherwise  
40 be assigned if the customer did not own, lease, rent, or otherwise

1 operate an eligible solar or wind electrical generating facility is  
2 contrary to the intent of this section, and shall not form a part of  
3 net energy metering contracts or tariffs.

4 (h) For eligible customer-generators, the net energy metering  
5 calculation shall be made by measuring the difference between  
6 the electricity supplied to the eligible customer-generator and the  
7 electricity generated by the eligible customer-generator and fed  
8 back to the electric grid over a 12-month period. The following  
9 rules shall apply to the annualized net metering calculation:

10 (1) The eligible residential or small commercial  
11 customer-generator shall, at the end of each 12-month period  
12 following the date of final interconnection of the eligible  
13 customer-generator's system with an electric utility, and at each  
14 anniversary date thereafter, be billed for electricity used during  
15 that 12-month period. The electric utility shall determine if the  
16 eligible residential or small commercial customer-generator was  
17 a net consumer or a net surplus customer-generator during that  
18 period.

19 (2) At the end of each 12-month period, where the electricity  
20 supplied during the period by the electric utility exceeds the  
21 electricity generated by the eligible residential or small commercial  
22 customer-generator during that same period, the eligible residential  
23 or small commercial customer-generator is a net electricity  
24 consumer and the electric utility shall be owed compensation for  
25 the eligible customer-generator's net kilowatthour consumption  
26 over that 12-month period. The compensation owed for the eligible  
27 residential or small commercial customer-generator's consumption  
28 shall be calculated as follows:

29 (A) For all eligible customer-generators taking service under  
30 contracts or tariffs employing "baseline" and "over baseline" rates,  
31 any net monthly consumption of electricity shall be calculated  
32 according to the terms of the contract or tariff to which the same  
33 customer would be assigned to, or be eligible for, if the customer  
34 was not an eligible customer-generator. If those same  
35 customer-generators are net generators over a billing period, the  
36 net kilowatthours generated shall be valued at the same price per  
37 kilowatthour as the electric utility would charge for the baseline  
38 quantity of electricity during that billing period, and if the number  
39 of kilowatthours generated exceeds the baseline quantity, the excess  
40 shall be valued at the same price per kilowatthour as the electric

1 utility would charge for electricity over the baseline quantity during  
2 that billing period.

3 (B) For all eligible customer-generators taking service under  
4 contracts or tariffs employing time-of-use rates, any net monthly  
5 consumption of electricity shall be calculated according to the  
6 terms of the contract or tariff to which the same customer would  
7 be assigned, or be eligible for, if the customer was not an eligible  
8 customer-generator. When those same customer-generators are  
9 net generators during any discrete time-of-use period, the net  
10 kilowatthours produced shall be valued at the same price per  
11 kilowatthour as the electric utility would charge for retail  
12 kilowatthour sales during that same time-of-use period. If the  
13 eligible customer-generator's time-of-use electrical meter is unable  
14 to measure the flow of electricity in two directions, paragraph (1)  
15 of subdivision (c) shall apply.

16 (C) For all eligible residential and small commercial  
17 customer-generators and for each billing period, the net balance  
18 of moneys owed to the electric utility for net consumption of  
19 electricity or credits owed to the eligible customer-generator for  
20 net generation of electricity shall be carried forward as a monetary  
21 value until the end of each 12-month period. For all eligible  
22 commercial, industrial, and agricultural customer-generators, the  
23 net balance of moneys owed shall be paid in accordance with the  
24 electric utility's normal billing cycle, except that if the eligible  
25 commercial, industrial, or agricultural customer-generator is a net  
26 electricity producer over a normal billing cycle, any excess  
27 kilowatthours generated during the billing cycle shall be carried  
28 over to the following billing period as a monetary value, calculated  
29 according to the procedures set forth in this section, and appear as  
30 a credit on the eligible commercial, industrial, or agricultural  
31 customer-generator's account, until the end of the annual period  
32 when paragraph (3) shall apply.

33 (3) At the end of each 12-month period, where the electricity  
34 generated by the eligible customer-generator during the 12-month  
35 period exceeds the electricity supplied by the electric utility during  
36 that same period, the eligible customer-generator is a net surplus  
37 customer-generator and the electric utility shall, upon an  
38 affirmative election by the eligible customer-generator, either (A)  
39 provide net surplus electricity compensation for any net surplus  
40 electricity generated during the prior 12-month period, or (B) allow

1 the eligible customer-generator to apply the net surplus electricity  
2 as a credit for kilowatthours subsequently supplied by the electric  
3 utility to the surplus customer-generator. For an eligible  
4 customer-generator that does not affirmatively elect to receive  
5 service pursuant to net surplus electricity compensation, the electric  
6 utility shall retain any excess kilowatthours generated during the  
7 prior 12-month period. The eligible customer-generator not  
8 affirmatively electing to receive service pursuant to net surplus  
9 electricity compensation shall not be owed any compensation for  
10 the net surplus electricity unless the electric utility enters into a  
11 purchase agreement with the eligible customer-generator for those  
12 excess kilowatthours. Every electric utility shall, by January 31,  
13 2010, provide notice to eligible customer-generators that they are  
14 eligible to receive net surplus electricity compensation for net  
15 surplus electricity, that they must elect to receive net surplus  
16 electricity compensation, and that the 12-month period commences  
17 when the electric utility receives the eligible customer-generator's  
18 election. The commission may, for an electric utility that is an  
19 electrical corporation or electrical cooperative, adopt requirements  
20 for providing notice and the manner by which eligible  
21 customer-generators may elect to receive net surplus electricity  
22 compensation.

23 (4) (A) The ratemaking authority shall, by January 1, 2011,  
24 establish a net surplus electricity compensation valuation to  
25 compensate the net surplus customer-generator for the value of  
26 net surplus electricity generated by the net surplus  
27 customer-generator. The commission shall establish the valuation  
28 in a ratemaking proceeding. The ratemaking authority for a local  
29 publicly owned electric utility shall establish the valuation in a  
30 public proceeding. The net surplus electricity compensation  
31 valuation shall be established so as to provide the net surplus  
32 customer-generator just and reasonable compensation for the value  
33 of net surplus electricity, while leaving other ratepayers unaffected.  
34 The ratemaking authority shall determine whether the  
35 compensation will include, where appropriate justification exists,  
36 either or both of the following components:

- 37 (i) The value of the electricity itself.
  - 38 (ii) The value of the renewable attributes of the electricity.
- 39 (B) In establishing the rate pursuant to subparagraph (A), the  
40 ratemaking authority shall ensure that the rate does not result in a

1 shifting of costs between solar customer-generators and other  
2 bundled service customers.

3 (5) (A) Upon adoption of the net surplus electricity  
4 compensation rate by the ratemaking authority, any renewable  
5 energy credit, as defined in Section 399.12, for net surplus  
6 electricity purchased by the electric utility shall belong to the  
7 electric utility. Any renewable energy credit associated with  
8 electricity generated by the eligible customer-generator that is  
9 utilized by the eligible customer-generator shall remain the property  
10 of the eligible customer-generator.

11 (B) Upon adoption of the net surplus electricity compensation  
12 rate by the ratemaking authority, the net surplus electricity  
13 purchased by the electric utility shall count toward the electric  
14 utility’s renewables portfolio standard annual procurement targets  
15 for the purposes of paragraph (1) of subdivision (b) of Section  
16 399.15, or for a local publicly owned electric utility, the renewables  
17 portfolio standard annual procurement targets established pursuant  
18 to Section 387.

19 (6) The electric utility shall provide every eligible residential  
20 or small commercial customer-generator with net electricity  
21 consumption and net surplus electricity generation information  
22 with each regular bill. That information shall include the current  
23 monetary balance owed the electric utility for net electricity  
24 consumed, or the net surplus electricity generated, since the last  
25 12-month period ended. Notwithstanding this subdivision, an  
26 electric utility shall permit that customer to pay monthly for net  
27 energy consumed.

28 (7) If an eligible residential or small commercial  
29 customer-generator terminates the customer relationship with the  
30 electric utility, the electric utility shall reconcile the eligible  
31 customer-generator’s consumption and production of electricity  
32 during any part of a 12-month period following the last  
33 reconciliation, according to the requirements set forth in this  
34 subdivision, except that those requirements shall apply only to the  
35 months since the most recent 12-month bill.

36 (8) If an electric service provider or electric utility providing  
37 net energy metering to a residential or small commercial  
38 customer-generator ceases providing that electric service to that  
39 customer during any 12-month period, and the customer-generator  
40 enters into a new net energy metering contract or tariff with a new

1 electric service provider or electric utility, the 12-month period,  
2 with respect to that new electric service provider or electric utility,  
3 shall commence on the date on which the new electric service  
4 provider or electric utility first supplies electric service to the  
5 customer-generator.

6 (i) Notwithstanding any other provisions of this section, the  
7 following provisions shall apply to an eligible customer-generator  
8 with a capacity of more than 10 kilowatts, but not exceeding one  
9 megawatt, that receives electric service from a local publicly owned  
10 electric utility that has elected to utilize a co-energy metering  
11 program unless the local publicly owned electric utility chooses  
12 to provide service for eligible customer-generators with a capacity  
13 of more than 10 kilowatts in accordance with subdivisions (g) and  
14 (h):

15 (1) The eligible customer-generator shall be required to utilize  
16 a meter, or multiple meters, capable of separately measuring  
17 electricity flow in both directions. All meters shall provide  
18 time-of-use measurements of electricity flow, and the customer  
19 shall take service on a time-of-use rate schedule. If the existing  
20 meter of the eligible customer-generator is not a time-of-use meter  
21 or is not capable of measuring total flow of energy in both  
22 directions, the eligible customer-generator shall be responsible for  
23 all expenses involved in purchasing and installing a meter that is  
24 both time-of-use and able to measure total electricity flow in both  
25 directions. This subdivision shall not restrict the ability of an  
26 eligible customer-generator to utilize any economic incentives  
27 provided by a governmental agency or an electric utility to reduce  
28 its costs for purchasing and installing a time-of-use meter.

29 (2) The consumption of electricity from the local publicly owned  
30 electric utility shall result in a cost to the eligible  
31 customer-generator to be priced in accordance with the standard  
32 rate charged to the eligible customer-generator in accordance with  
33 the rate structure to which the customer would be assigned if the  
34 customer did not use an eligible solar or wind electrical generating  
35 facility. The generation of electricity provided to the local publicly  
36 owned electric utility shall result in a credit to the eligible  
37 customer-generator and shall be priced in accordance with the  
38 generation component, established under the applicable structure  
39 to which the customer would be assigned if the customer did not  
40 use an eligible solar or wind electrical generating facility.

1 (3) All costs and credits shall be shown on the eligible  
2 customer-generator's bill for each billing period. In any months  
3 in which the eligible customer-generator has been a net consumer  
4 of electricity calculated on the basis of value determined pursuant  
5 to paragraph (2), the customer-generator shall owe to the local  
6 publicly owned electric utility the balance of electricity costs and  
7 credits during that billing period. In any billing period in which  
8 the eligible customer-generator has been a net producer of  
9 electricity calculated on the basis of value determined pursuant to  
10 paragraph (2), the local publicly owned electric utility shall owe  
11 to the eligible customer-generator the balance of electricity costs  
12 and credits during that billing period. Any net credit to the eligible  
13 customer-generator of electricity costs may be carried forward to  
14 subsequent billing periods, provided that a local publicly owned  
15 electric utility may choose to carry the credit over as a kilowatthour  
16 credit consistent with the provisions of any applicable contract or  
17 tariff, including any differences attributable to the time of  
18 generation of the electricity. At the end of each 12-month period,  
19 the local publicly owned electric utility may reduce any net credit  
20 due to the eligible customer-generator to zero.

21 (j) A solar or wind turbine electrical generating system, or a  
22 hybrid system of both, used by an eligible customer-generator shall  
23 meet all applicable safety and performance standards established  
24 by the National Electrical Code, the Institute of Electrical and  
25 Electronics Engineers, and accredited testing laboratories, including  
26 Underwriters Laboratories and, where applicable, rules of the  
27 commission regarding safety and reliability. A customer-generator  
28 whose solar or wind turbine electrical generating system, or a  
29 hybrid system of both, meets those standards and rules shall not  
30 be required to install additional controls, perform or pay for  
31 additional tests, or purchase additional liability insurance.

32 (k) If the commission determines that there are cost or revenue  
33 obligations for an electrical corporation, as defined in Section 218,  
34 that may not be recovered from customer-generators acting  
35 pursuant to this section, those obligations shall remain within the  
36 customer class from which any shortfall occurred and may not be  
37 shifted to any other customer class. Net energy metering and  
38 co-energy metering customers shall not be exempt from the public  
39 goods charges imposed pursuant to Article 7 (commencing with  
40 Section 381), Article 8 (commencing with Section 385), or Article

1 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its  
2 report to the Legislature, the commission shall examine different  
3 methods to ensure that the public goods charges remain  
4 nonbypassable.

5 (l) A net energy metering, co-energy metering, or wind energy  
6 co-metering customer shall reimburse the Department of Water  
7 Resources for all charges that would otherwise be imposed on the  
8 customer by the commission to recover bond-related costs pursuant  
9 to an agreement between the commission and the Department of  
10 Water Resources pursuant to Section 80110 of the Water Code,  
11 as well as the costs of the department equal to the share of the  
12 department's estimated net unavoidable power purchase contract  
13 costs attributable to the customer. The commission shall  
14 incorporate the determination into an existing proceeding before  
15 the commission, and shall ensure that the charges are  
16 nonbypassable. Until the commission has made a determination  
17 regarding the nonbypassable charges, net energy metering,  
18 co-energy metering, and wind energy co-metering shall continue  
19 under the same rules, procedures, terms, and conditions as were  
20 applicable on December 31, 2002.

21 (m) In implementing the requirements of subdivisions (k) and  
22 (l), an eligible customer-generator shall not be required to replace  
23 its existing meter except as set forth in paragraph (1) of subdivision  
24 (c), nor shall the electric utility require additional measurement of  
25 usage beyond that which is necessary for customers in the same  
26 rate class as the eligible customer-generator.

27 (n) It is the intent of the Legislature that the Treasurer  
28 incorporate net energy metering, including net surplus electricity  
29 compensation, co-energy metering, and wind energy co-metering  
30 projects undertaken pursuant to this section as sustainable building  
31 methods or distributive energy technologies for purposes of  
32 evaluating low-income housing projects.

33 ~~SEC. 381.~~

34 *SEC. 380.* Division 1.5 (commencing with Section 3300) of  
35 the Public Utilities Code is repealed.

36 ~~SEC. 382.~~

37 *SEC. 381.* Section 9502 of the Public Utilities Code is amended  
38 to read:

39 9502. On or before December 1, 1994, and on a biennial basis  
40 thereafter, each publicly owned electric and gas utility shall submit

1 a report to the Department of Energy describing the status of their  
2 low-income weatherization programs required by Sections 9500  
3 and 9501. Thereafter, as part of the biennial conservation report  
4 prepared pursuant to Section 25401.1 of the Public Resources  
5 Code, the commission shall report to the Legislature summarizing  
6 publicly owned utility efforts to comply with Sections 9500 and  
7 9501.

8 ~~SEC. 383.~~

9 *SEC. 382.* The provisions of this act are severable. If any  
10 provision of this act or its application is held invalid, that invalidity  
11 shall not affect other provisions or applications that can be given  
12 effect without the invalid provision or application.